

## NOTICES OF EXEMPT RULEMAKING

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

### NOTICE OF EXEMPT RULEMAKING

#### TITLE 9. HEALTH SERVICES

#### CHAPTER 2. DEPARTMENT OF HEALTH SERVICES TOBACCO TAX-FUNDED PROGRAMS

##### PREAMBLE

1. **Sections Affected**

Article 2	<b><u>Rulemaking Action</u></b>
R9-2-201	New Article
R9-2-202	New Section
R9-2-203	New Section
R9-2-204	New Section
R9-2-205	New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 42-1241 and 42-1242.01  
Implementing statute: Laws 1995, Ch. 275, § 9
3. **The effective date of the exempt rules:**

August 30, 1995
4. **A list of all previous notices appearing in the Register addressing the exempt rules:**

None published.
5. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Dr. Joel Meister, Assistant Director  
Address: Department of Health Services  
1400 West Washington, Basement  
Phoenix, Arizona 85007  
Telephone: (602) 542-7200  
Fax: (602) 542-7226
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

During the last session, legislation was enacted to govern the expenditure of monies collected as a result of a new tobacco tax. One Section of that legislation, addressing the spending of monies for educational purposes, requires that the Department adopt rules regarding the expenditure of monies in the health education account of the tobacco tax and health care fund established in A.R.S. § 42-1241, including a means and process for awarding contracts or expending monies, a mechanism for reviewing any contracts awarded to ensure that the monies are used in accordance with the law, and other provisions determined by the Director to be necessary to implement the law. To that end, these rules are being adopted.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.
8. **The summary of the economic, small business, and consumer impact:**

Not applicable.
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Three minor changes were made. One was the deletion of "Indian tribe" from the definition of "Indian tribe". The second was the substitution of a comma for an "and" in R9-2-203. The final change was the addition of the reference to A.R.S. Title 41, Chapter 23, the Arizona Procurement Code, to the cited rules Title and Chapter, rules which have been promulgated in accordance with that Code.
10. **A summary of the principal comments and the agency response to them:**

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

Not applicable.
12. **Incorporations by reference and their location in the rules:**

None.
13. **Was this rule previously adopted as an emergency rule?:**

No.

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Notices of Exempt Rulemaking

14. The full text of the rules follows:

**TITLE 9. HEALTH SERVICES**

**CHAPTER 2. DEPARTMENT OF HEALTH SERVICES  
TOBACCO TAX-FUNDED PROGRAMS**

**ARTICLE 2. HEALTH EDUCATION PROGRAM**

- R9-2-201. Definitions
- R9-2-202. Use of Funds
- R9-2-203. Eligibility for Contracts
- R9-2-204. Process for Awarding Contracts
- R9-2-205. Review of Awarded Contracts

**ARTICLE 2. HEALTH EDUCATION PROGRAM**

In this Article, unless the context otherwise requires:

1. "Accredited schools, community colleges, and universities" means educational institutions accredited by the New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or the Western Association of Schools and Colleges.
2. "County health department" means a local public health department established pursuant to A.R.S. Title 36, Chapter 1, Article 4.
3. "Department" means the Department of Health Services.
4. "Director" means the Director of the Department of Health Services.
5. "Indian tribe" means any organized Indian nation, tribe, band, or community recognized by the United States Department of the Interior.
6. "Qualified Community Health Center" means a community-based primary care facility that provides medical care in medically underserved areas, as defined pursuant to A.R.S. § 36-2352, through the employment of physicians, professional nurses, physician assistants, or other health care technical and paraprofessional personnel.

**R9-2-202. Use of Funds**

Funds received through the health education account of the tobacco tax and health care fund established pursuant to A.R.S. §

42-1241 shall be used for education programs related to the prevention and reduction of tobacco use, including the following:

1. The development, delivery, and evaluation of education programs designed to prevent or reduce tobacco use including radio, television, or print media costs; and
2. The administration of contracts with eligible agencies and for expert services to assist in the evaluation of requests for proposals and responses to those requests.

**R9-2-203. Eligibility for Contracts**

Agencies eligible to apply for contracts through the health education account of the tobacco tax and health care fund established pursuant to A.R.S. § 42-1241 shall include county health departments, qualified community health centers, Indian tribes, accredited schools, community colleges, and universities.

**R9-2-204. Process for Awarding Contracts**

- A. Unless otherwise provided, the awarding of contracts through the health education account of the tobacco tax and health care fund established pursuant to A.R.S. § 42-1241 shall comply with A.R.S. Title 41, Chapter 23, and 2 A.A.C. 7.
- B. The Department shall award contracts through Requests for Proposals or through intergovernmental agreement.
- C. The Director shall appoint a review panel with expertise in tobacco use prevention to review proposals submitted in response to Requests for Proposals. Evaluation of the proposals shall be based on the evaluation factors set forth in the Request for Proposals.

**R9-2-205. Review of Awarded Contracts**

In addition to any contract requirements, agencies receiving funds through the health education account shall submit to reviews by the Department during normal business hours to determine compliance with the provisions of A.R.S. § 42-1242.01. Agencies shall maintain copies of any educational materials developed through this funding and shall solicit and maintain participant evaluations of all program presentations, workshops, and seminars. Agencies shall make these records available for Department inspection upon request.