

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**

R9-2-201	Rulemaking Action
R9-2-202	Amend
R9-2-203	Repeal
R9-2-204	Repeal
R9-2-205	Amend
R9-2-205	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 36-136(F), 42-1241, and 42-1242.01
Implementing statute: Laws 1995, Ch. 275, § 9
3. **The effective date of the rules:**

October 20, 1995

A list of all previous notices appearing in the Register addressing the exempt rule:
None published.
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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

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, and a mechanism for reviewing any contracts awarded to ensure that the monies are used in accordance with the law.
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):**

Not applicable.
10. **A summary of the principal comments and the agency response to them:**

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

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

Codification of Governmental Accounting and Financial Reporting Standards, June 1995, Governmental Accounting Standards Board, P.O. Box 30784, Hartford, CT 06150, at R9-2-202(C).

Arizona Administrative Register
Notices of Exempt Rulemaking

13. Was this rule previously adopted as an emergency rule?
No.

14. The full text of the rules follows:

TITLE 9. DEPARTMENT OF HEALTH SERVICES

CHAPTER 2. DEPARTMENT OF HEALTH SERVICES

TOBACCO TAX-FUNDED PROGRAMS

ARTICLE 2. HEALTH EDUCATION PROGRAM

Section

- R9-2-201. Definitions
R9-2-202. Use of Funds
R9-2-203. Eligibility of Contracts
R9-2-204.2. Process for Awarding contracts Contracts; Expenditures
R9-2-205.3. Review of Awarded Contracts

ARTICLE 2. HEALTH EDUCATION PROGRAM

R9-2-201. Definitions

~~In For purposes of this Article and A.R.S. § 36-1241.01, 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 Native American nation, tribe group, 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.
6. "Procurement Code" means A.R.S. Title 41, Chapter 23, and 2 A.A.C. 7.
7. "School" means a school as defined by A.R.S. § 15-101(17), accommodation school as defined by A.R.S. § 15-101(1), charter school as defined by A.R.S. § 15-101(3), or private school as defined in A.R.S. § 15-101(16).

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.

R9-2-204.2. ~~Process for Awarding contracts~~ Contracts; Expenditures

- 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. Procurement shall be conducted by the Department and the Director in accordance with the Procurement Code. The Director shall effect all contracts and make all decisions required of the Director of the Department of Administration by the Procurement Code.~~
- B. ~~The Department shall award contracts through Requests for Proposals or through intergovernmental agreement.~~
- C. ~~The Director shall may 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, and may include, for example, conformance to terms and conditions, scope of work and Request for Proposal requirements, and cost.~~
- C. ~~Administrative expenditures by the Department and the Director shall be made in accordance with A.R.S. § 35-151 et seq. and generally accepted accounting principles as set forth in the Codification of Governmental Accounting and Financial Reporting Standards, June 1995, Governmental Accounting Standards Board, P.O. Box 30784, Hartford, CT 06150, which is incorporated by reference and on file with the Office of the Secretary of State.~~

R9-2-205.3. 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. Awarded contracts shall be reviewed by the Department in accordance with contract requirements and the Procurement Code.~~