

# NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

**Editor's Note:** The following Notices of Final Rulemaking were filed with the Secretary of State's Office before the implementation Governor's Regulatory Review Plan memorandum, January 22, 2009. See a copy of the memorandum in this issue on page 342.

The final rules were filed by the Governor's Regulatory Review Council and date stamped in the Secretary of State's office on January 6, 2009, under A.R.S. § 41-1031(A). They become effective on March 7, 2009, under A.R.S. § 41-1031(A).

Pursuant to A.R.S. § 41-1013(B)(9):

B. The Register shall contain:

9. The full text and accompanying preamble of each final rule.

Pursuant to A.R.S. § 41-1032(A)

A. A rule becomes effective sixty days after a certified original and two copies of the rule and preamble are filed in the office of the secretary of state and the time and date are affixed as provided in section 41-1031.

Pursuant to A.R.S. § 41-1031(A)

Filing rules and preamble with secretary of state; permanent record

Following the filing of a rule made pursuant to an exemption to this chapter or following approval and filing of a rule and preamble and an economic, small business and consumer impact statement by the council as provided in article 5 of this chapter or by the attorney general as provided in article 4 of this chapter, the secretary of state shall affix to each rule document, preamble and economic, small business and consumer impact statement the time and date of filing. A rule is not final until the secretary of state affixes the time and date of filing to the rule document as provided in this section.

Please be advised that the following Notices of Final Rulemaking may fall under the review of Governor's Regulatory Review Plan memorandum, January 22, 2009. Contact the agency for more information.

## NOTICE OF FINAL RULEMAKING

### TITLE 2. ADMINISTRATION

#### CHAPTER 6. ~~EXPIRED~~ DEPARTMENT OF ADMINISTRATION

#### BENEFIT SERVICES DIVISION

[R09-10]

#### PREAMBLE

#### **1. Sections Affected**

Article 1  
R2-6-101  
R2-6-102  
R2-6-103  
R2-6-104  
R2-6-105  
R2-6-106  
R2-6-107  
R2-6-108  
Article 2  
R2-6-201

#### **Rulemaking Action**

New Article  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Article  
New Section

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R2-6-202	New Section
R2-6-203	New Section
R2-6-204	New Section
R2-6-205	New Section
Article 3	New Article
R2-6-301	New Section
R2-6-302	New Section
R2-6-303	New Section
Article 4	New Article
R2-6-401	New Section
R2-6-402	New Section

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 41-763(6) and 38-653

Implementing statute: A.R.S. §§ 35-181.02, 38-651, 38-651.01, 38-651.02, 38-651.03, and 38-651.05

**3. The effective date for the rules:**

March 7, 2009

**4. List of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 14 A.A.R. 3438, August 29, 2008

Notice of Proposed Rulemaking: 14 A.A.R. 3863, October 10, 2008

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Jeanne Hann  
Address: Department of Administration  
100 N. 15th Ave., Suite 363  
Phoenix, AZ 85007  
Telephone: (602) 542-2006  
Fax: (602) 542-7544  
E-mail: Jeanne.hann@azdoa.gov

**6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

In response to a Five-year Review Report approved by Council in September 2006, the Department is relocating insurance plan rules from 2 A.A.C. 5 to a new Chapter. This change is necessary because the insurance plan rules are applicable to all state employees and officers rather than only to those who are covered under the state merit system. These new rules are substantively similar to existing rules, which are being repealed. The Department has made the rules more clear, concise, and understandable and consistent with state and federal law and agency practice.

The Department is extending eligibility to participate in the insurance plans to enrolled older children who become disabled and is providing that coverage of a disabled older child does not terminate solely because the disabled older child attains the age that would be limiting without the disability.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

The economic impact of reorganizing and modernizing existing rules is minimal. Extending eligibility to participate in the insurance plans to disabled older children will cost approximately \$420,000 annually and provide a significant benefit to the disabled older child and the child's family. It will also benefit tax payers of the state because the disabled older child will have insurance coverage rather than depending on state-provided programs. Because the cost of extending insurance coverage to disabled older children will be shared by those who participate in the insurance plans made available by the Department, the rulemaking will have a minimal economic cost for each participant.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

In addition to minor word choice and formatting changes made between the proposed and final rules, the Department:

- Clarified that the definition of "approved leave" applies to all employees and officers;

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- Corrected a statutory citation in the definition of “credible coverage;” and
- Clarified the definitions of “surviving dependent” and “surviving spouse” by more closely tracking statutory language;

**11. A summary of the comments made regarding the rules and the agency response to them:**

The Department received no comments regarding the rules.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**13. Incorporations by reference and their location in the rule:**

None

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

No

**15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 6. ~~EXPIRED~~ DEPARTMENT OF ADMINISTRATION  
BENEFIT SERVICES DIVISION

ARTICLE 1. ~~EXPIRED~~ GENERAL PROVISIONS

Section

- R2-6-101. ~~Expired~~ Definitions  
R2-6-102. ~~Expired~~ Availability of Funds Required  
R2-6-103. ~~Expired~~ Authority of the Director  
R2-6-104. ~~Expired~~ Confidentiality  
R2-6-105. ~~Expired~~ Times for Enrollment  
R2-6-106. ~~Expired~~ Effective Date of Coverage  
R2-6-107. ~~Expired~~ Termination of Coverage  
R2-6-108. ~~Expired~~ COBRA

ARTICLE 2. ~~EXPIRED~~ INSURANCE PLANS

Section

- R2-6-201. ~~Expired~~ Insurance Plans  
R2-6-202. ~~Expired~~ Long-term Disability Insurance  
R2-6-203. ~~Expired~~ Flexible Spending Accounts  
R2-6-204. ~~Expired~~ Employee Flexible Benefit Plan  
R2-6-205. ~~Expired~~ Performance Standards for Health, Dental, and Vision Insurance Plans

ARTICLE 3. ~~EXPIRED~~ ELIGIBILITY CRITERIA

Section

- R2-6-301. ~~Expired~~ Eligibility to Participate in Health, Dental, and Vision Insurance Plans  
R2-6-302. ~~Expired~~ Eligibility to Participate in Life and Short-term Disability Insurance Plans  
R2-6-303. ~~Expired~~ Audit of Dependent Eligibility

ARTICLE 4. ~~EXPIRED~~ APPEALS AND GRIEVANCES

Section

- R2-6-401. ~~Expired~~ Appeal of a Plan-provider Decision  
R2-6-402. ~~Expired~~ Grievance of a Department Decision

ARTICLE 1. ~~EXPIRED~~ GENERAL PROVISIONS

**R2-6-101. ~~Expired~~ Definitions**

In this Chapter, unless otherwise specified:

1. “Accident and health insurance,” as used in A.R.S. Title 38, Chapter 4, Article 4, means health insurance and dental insurance.
2. “Agency” means a department, board, office, authority, commission, or other governmental budget unit of the state.

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3. “Agency head” means the chief executive officer of an agency.
4. “Appeal” means a request to a plan provider for review of a decision made by the plan provider.
5. “Approved leave” means an employee’s or officer’s absence from assigned work that is authorized by the employee’s or officer’s supervisor.
6. “Base pay” means the fixed compensation paid to an employee or officer. Base pay excludes pay for overtime, shift differential, bonuses, special performance adjustment, special incentive program, or other allowance.
7. “Basic life insurance” means the amount of life insurance that the Department provides at no charge to an employee or officer.
8. “Child” means an unmarried individual who falls within one or more of the following categories:
  - a. A natural child, adopted child, or stepchild of an employee, officer, retiree, former elected official, or domestic partner who is:
    - i. Younger than 19, or
    - ii. Younger than 25 if a full-time student;
  - b. A foster child who is younger than 19;
  - c. A child who is younger than 19 for whom the employee, officer, retiree, or former elected official has court-ordered guardianship;
  - d. A child who is younger than 19 and placed in the home of the employee, officer, retiree, or former elected official by court order pending adoption; or
  - e. A natural child, adopted child, or stepchild of an employee, officer, retiree, former elected official, or domestic partner:
    - i. Who was disabled as defined at 42 U.S.C. 1382c before the age of 19;
    - ii. Who continues to be disabled as defined at 42 U.S.C. 1382c;
    - iii. Who is dependent for support and maintenance upon the employee, officer, retiree, former elected official, or domestic partner; and
    - iv. For whom the employee, officer, retiree, former elected official, or domestic partner had custody before the child was 19.
9. “COBRA” means Consolidated Omnibus Budget Reconciliation Act of 1986, which is a federal law that provides the opportunity to continue group health insurance coverage that might otherwise be terminated.
10. “COBRA member” means a former member or formerly eligible dependent of a member or former member who opts to continue health insurance through COBRA after no longer meeting the eligibility standards in Article 3.
11. “Compensation” means the total taxable remuneration provided by the state to an employee or officer in exchange for the employee’s or officer’s services.
12. “Creditable coverage” has the same meaning as prescribed at 29 U.S.C. 1181.
13. “Day” means a calendar day.
14. “Dental insurance” means an arrangement under which a policy holder makes advance payment to an insurer and the insurer pays amounts on behalf of an insured for certain preventive, diagnostic, and remedial care of the insured’s teeth and gums.
15. “Department” means the Arizona Department of Administration.
16. “Director” means the Director of the Department or the Director’s designee.
17. “Disability income insurance” means a form of insurance that insures a specified portion of the compensation of an employee or officer against the risk that disability will make working impossible.
18. “Disabled older child” means an older child who:
  - a. Is disabled, as defined at 42 U.S.C. 423 or 42 U.S.C. 1382c;
  - b. Became disabled on or after the older child’s nineteenth birthday but before the older child’s twenty-fifth birthday;
  - c. Is dependent for support and maintenance upon:
    - i. The employee, officer, retiree, or former elected official who enrolled the disabled older child in the insurance plan made available by the Department; or
    - ii. The domestic partner of the employee, officer, retiree, or former elected official; and
  - d. If the criteria in subsections (18)(a) through (18)(c) are met, may be more than 24 years old.
19. “Domestic partner” means an individual who is of the same or opposite gender to an employee, officer, or retiree and who:
  - a. Shares a permanent residence with the employee, officer, or retiree;
  - b. Has resided with the employee, officer, or retiree continuously for the last 12 consecutive months and expects to continue to reside with the employee, officer, or retiree indefinitely as evidenced by an affidavit filed at the time of enrollment;
  - c. Has not signed a declaration or affidavit of domestic partnership with another individual within the last 12 months;
  - d. Has not had another domestic partner within the last 12 months;

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- e. Does not currently have another domestic partner;
  - f. Is not currently married to or legally separated from anyone;
  - g. Is not related by blood to the employee, officer, or retiree to a degree that would prohibit marriage in Arizona;
  - h. Was mentally competent to consent when the domestic partnership was established;
  - i. Is not acting under fraud or duress with regard to the insurance plans made available by the Department;
  - j. Is at least 18 years old; and
  - k. Is financially interdependent with the employee, officer, or retiree in at least three of the following ways:
    - i. Holds a joint mortgage, joint property tax identification, or joint tenancy on a residential lease;
    - ii. Holds one or more credit or bank accounts jointly;
    - iii. Owens significant property, such as a vehicle or real estate, jointly;
    - iv. Has one or more joint liabilities;
    - v. Is named by or has named the employee, officer, or retiree as beneficiary of life insurance or under a will or retirement annuity;
    - vi. Has a written durable power of attorney in which each assumes financial responsibility for the other; or
    - vii. Other evidence of financial interdependence that is approved by the Director.
20. “Eligible dependent” means a member’s spouse, domestic partner, child, older child, or disabled older child, who is lawfully present in the U.S.
21. “Employee” means an individual who is hired by the state and regularly scheduled to work at least 20 hours per week for six months or longer. Employee does not include:
  - a. A patient or inmate employed at a state institution;
  - b. A non-state employee, officer, or enlisted personnel of the National Guard of Arizona;
  - c. An individual hired to fill an emergency, seasonal, or temporary position;
  - d. An individual who fills a position designed primarily to provide rehabilitation to the individual;
  - e. A student or work-study employee; or
  - f. An individual hired by a state university or college for whom the state university or college does not contribute to a state-sponsored retirement plan unless the individual is:
    - i. A non-immigrant alien employee,
    - ii. Participating in a medical residency or post-doctoral training program,
    - iii. On federal appointment with Cooperative Extension, or
    - iv. A retiree who has returned to work under A.R.S. § 38-766.01.
22. “Employee flexible benefit plan,” is the State of Arizona Cafeteria Plan as approved by the Internal Revenue Service and means the insurance plans specified in R2-6-204, the value of which is excludable from an employee’s or officer’s compensation under Section 125 of the Internal Revenue Code.
23. “Flexible spending account” means a financial arrangement under which an employee or officer authorizes the Department to reduce the employee’s or officer’s compensation on a pre-tax basis by a specified amount that the employee or officer uses to pay for eligible out-of-pocket expenses for health care, dependent care, or both.
24. “Former elected official” means an individual who was elected by popular vote in this state to serve, but who no longer serves as a:
  - a. State official;
  - b. County official;
  - c. Justice of the supreme court;
  - d. Judge of the court of appeals or superior court;
  - e. Full-time superior court commissioner except a full-time superior court commissioner who did not make a timely election of membership under the judges’ retirement plan repealed on August 7, 1985; and
  - f. Official of an incorporated city or town if the incorporated city or town has executed an agreement with the state for coverage of the official.
25. “Grievance” means a written expression of dissatisfaction about any benefits matter other than a decision by a plan provider.
26. “Health insurance” means an arrangement under which a policy holder makes advance payments to an insurer and the insurer pays amounts on behalf of an insured for routine, preventive, and emergency health-care procedures and pharmaceuticals.
27. “Incumbent” means the employee or officer who currently holds a position or office.
28. “Institution” means a facility that provides supervision or care for residents on a 24-hours-per-day, seven-days-per-week basis.
29. “Life insurance” means a contract between an insurer and a policy holder under which the insurer agrees to pay a sum of money upon the occurrence of an insured’s death in exchange for the policy holder paying a stipulated amount at regular intervals.
30. “Long-term disability insurance” means an insurance product that replaces part of an employee’s or officer’s compensation after an initial waiting period for the duration of time that the employee or officer is medically determined

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- to be totally disabled as a result of a covered injury, illness, or pregnancy.
31. “Manifest error” means an act or failure to act that clearly is or has caused a mistake.
32. “Member” means an employee, officer, retiree, or former elected official who meets the criteria at R2-6-301(B), who enrolls in one or more of the insurance plans made available by the Department.
33. “Officer” means an individual who:
- a. Is elected or appointed to a state office, including a member of the state legislature; or
  - b. Is a member of a state board, commission, or council and serves at least 1,000 hours per year.
34. “Older child” means an individual who meets one of the criteria in subsections (a) through (c) and all of the criteria in subsections (d) through (g):
- a. Is a natural child, adopted child, or stepchild of an employee, officer, retiree, or former elected official;
  - b. Is a natural child, adopted child, or stepchild of a domestic partner, or
  - c. Is a child for whom an employee, officer, retiree, or former elected official received a court-ordered guardianship when the child was 18 years old or younger;
  - d. Is younger than 25 years old.
  - e. Is unmarried.
  - f. Was covered by a health insurance plan made available by the Department during the year that the individual was 18 years old, and
  - g. Resides in Arizona.
35. “Open enrollment” means a specified period during which a member may make additions, changes, or deletions to the member’s participation in the insurance plans made available by the Department.
36. “Ophthalmic goods” means eyeglasses or contact lenses for which a prescription is required and components of the eyeglasses.
37. “Plan provider” means an entity that enters into a contract with the Department to provide an insurance plan to members and their eligible dependents.
38. “Plan year” means a specified period of twelve consecutive months during which a member is able to change the member’s participation in the insurance plans made available by the Department only if the member experiences a qualified life event.
39. “Post-tax dependent” means an older child, disabled older child, domestic partner, and natural child, adopted child, or stepchild of the domestic partner of an employee or officer.
40. “Pre-tax dependent” means an eligible dependent who is not a post-tax dependent.
41. “QMCSO” means qualified medical child support order and has the same meaning as prescribed at 29 U.S.C. 1169.
42. “Qualified life event” means a change in a member’s dependents, employment status, or residence that entitles the member to change the member’s or an eligible dependent’s participation in the insurance plans made available by the Department before the next open enrollment period. Qualified life event includes:
- a. Change in marital status caused by marriage, divorce, legal separation, annulment, or death of spouse;
  - b. Change in domestic partnership status caused by creation or termination of a domestic partnership or death of a domestic partner;
  - c. Change in dependent status caused by birth, adoption, placement for adoption, court-ordered guardianship, death, or dependent eligibility due to age, marriage, or student status;
  - d. Change in employment status or work schedule that affects a member’s eligibility to participate in the insurance plans made available by the Department; and
  - e. Change in residence that affects available insurance plan options.
43. “Retiree” means an employee or officer who is retired under a state-sponsored retirement plan or who receives long-term disability payments under a plan made available by the Department.
44. “Salary-reduction order” means a document signed by an employee or officer who elects to participate in the employee flexible benefit plan authorizing the state to reduce the employee’s or officer’s compensation under Section 125 of the Internal Revenue Code.
45. “Short-term disability insurance” means an insurance product that replaces part of an employee’s or officer’s compensation for a predetermined period if the employee or officer is medically determined to be unable to work due to illness, pregnancy, or a non-work-related injury.
46. “Spouse” means a member’s husband or wife under Arizona law.
47. “Supplemental life insurance” means life insurance that is in addition to basic life insurance.
48. “Surviving dependent,” as used in A.R.S. § 38-651.01(A), means:
- a. An insured eligible dependent of an insured retiree who dies, or
  - b. An insured spouse or insured eligible dependent child of an insured employee or officer who dies when eligible for retirement under the Arizona State Retirement System.
49. “Surviving spouse,” as used in A.R.S. § 38-651.01(B), means the insured spouse of:
- a. An incumbent elected official who dies when the incumbent elected official would be qualified for eligibility under R2-6-301(B) if the incumbent elected official had not been in office at the time of death, or

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- b. An insured former elected official who dies when qualified for eligibility under R2-6-301(B).
50. “Vision insurance” means a form of insurance that provides coverage for the services rendered by an eye-care professional and for the purchase of ophthalmic goods.

**R2-6-102. ~~Expired Availability of Funds Required~~**

As provided by law, any expenditure of public monies for an insurance plan described in this Article is contingent upon the legislature making an appropriation for the plan and the availability of funds.

**R2-6-103. ~~Expired Authority of the Director~~**

- A.** Within the limits prescribed by law, the Director shall determine the type, structure, and components of the insurance plans made available by the Department.
- B.** The Director has authority to administer the insurance plans made available by the Department including:
1. Construing and interpreting each plan;
  2. Deciding questions of eligibility; and
  3. Determining the amount of and manner and time that benefits are paid.
- C.** The Director shall determine whether an insurance plan made available by the Department needs to be amended or terminated.
- D.** The Director shall establish a procedure for ensuring that a member makes timely payments for participation in an insurance plan made available by the Department.
- E.** If the Director determines that it is in the best interest of the state and consistent with law, the Director may delegate authority regarding the insurance plans to an agency head.
- F.** The Director shall determine whether a manifest error exists and correct the manifest error.

**R2-6-104. ~~Expired Confidentiality~~**

The Department shall comply with all federal, state, and local laws regarding use and disclosure of protected health information of an individual who participates in an insurance plan made available by the Department.

**R2-6-105. ~~Expired Times for Enrollment~~**

- A.** An employee, officer, retiree, or former elected official may enroll or may enroll an eligible dependent in one or more of the insurance plans made available by the Department only at the following times:
1. Within 31 days of becoming eligible to participate in an insurance plan.
  2. Within 31 days of a qualified life event, and
  3. At open enrollment.
- B.** A surviving dependent, as defined in R2-6-101, who wishes to continue enrollment in the health, dental, and vision insurance plans made available by the Department shall enroll within six months after the death that makes the surviving dependent eligible to continue enrollment.
- C.** A surviving spouse, as defined in R2-6-101, who wishes to continue enrollment in the health, dental, vision, or life insurance plans made available by the Department shall enroll within 31 days after the death of the incumbent or former elected official.
- D.** To be covered under the health or dental insurance plans made available by the Department, a retiree shall enroll at the time specified in subsection (A) and shall maintain enrollment in the health or dental insurance plan. If a retiree terminates participation in both the health and dental insurance plans made available by the Department, neither the retiree nor the retiree’s eligible dependent is eligible to enroll at a later time.

**R2-6-106. ~~Expired Effective Date of Coverage~~**

- A.** If an individual enrolls in an insurance plan made available by the Department or provides notice of a qualified life event within the time specified in R2-6-105, the Department shall ensure that the insurance coverage becomes effective on the following dates:
1. Newly hired employee or officer. The date determined by the Director following submission of a properly completed enrollment form and supporting documentation;
  2. Retiree, former elected official, surviving dependent, or surviving spouse. The first day of the first pay period following the end of active coverage or the first day of the first month following submission of a properly completed enrollment form and supporting documentation, whichever is applicable;
  3. Qualified life event change other than a change in the number of dependents due to birth, adoption, legal placement for adoption, or grant of legal guardianship:
    - a. Non-university employee or officer. The first day of the first pay period following submission of a properly completed enrollment form and supporting documentation;
    - b. University employee. The date determined by the Director; and
    - c. Retiree, former elected official, surviving dependent, or surviving spouse. The first of the month following submission of a properly completed enrollment form and supporting documentation; and
  4. Change in the number of dependents due to birth, adoption, legal placement for adoption, or grant of legal guardianship. On the date of birth, adoption, legal placement for adoption, or grant of legal guardianship if a properly com-

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pleted enrollment form and supporting documentation are submitted.

- B.** If a retiree, former elected official, eligible dependent, surviving dependent, or surviving spouse becomes eligible for Medicare, the retiree, former elected official, eligible dependent, surviving dependent, or surviving spouse may cancel or reduce coverage under the health plan made available by the Department. If a retiree, former elected official, eligible dependent, surviving dependent, or surviving spouse ceases to be eligible for Medicare, the retiree, former elected official, eligible dependent, surviving dependent, or surviving spouse may enroll or increase coverage under the health plan made available by the Department. A change made under this subsection becomes effective on the first day of the first month following submission of a properly completed enrollment form and supporting documentation if the enrollment form and supporting documentation are submitted within 31 days of the change in Medicare eligibility.
- C.** If a member experiences one of the following changes in coverage, the member may make a corresponding change to the member's coverage under the health plan made available by the Department by submitting a properly completed enrollment form and supporting documentation within 31 days of the change. A change made under this subsection becomes effective on the first day of the first pay period or first month, as applicable, following submission of a properly completed enrollment form and supporting documentation:
  - 1. Elected coverage provided under the plan is significantly restricted or eliminated.
  - 2. Non-elected coverage provided under the plan is significantly improved.
  - 3. The member's spouse or domestic partner makes a change in the coverage provided by the spouse's or domestic partner's employer.
  - 4. The member or an eligible dependent loses coverage under another group health plan sponsored by a governmental or educational institution, or
  - 5. The member becomes subject to a QMCSO or another person becomes subject to a QMCSO that requires the other person to provide health insurance for the member's eligible dependent.

**R2-6-107. Expired Termination of Coverage**

- A.** Insurance coverage of an employee or officer and the employee's or officer's eligible dependent terminates at 11:59 p.m. on the last day of the period for which an insurance premium was paid if the employee or officer ceases to be eligible to participate in the insurance plan.
- B.** Insurance coverage of an eligible dependent terminates at 11:59 p.m. on the last day that the individual is an eligible dependent under this Chapter.
- C.** Insurance coverage of a retiree or former elected official terminates:
  - 1. Automatically if the retiree or former elected official dies, or
  - 2. At 11:59 p.m. on the last day of the period for which the last insurance premium was paid.
- D.** Insurance coverage of a surviving dependent or surviving spouse terminates at 11:59 p.m. on the last day of the period for which the last insurance premium was paid.
- E.** Insurance coverage of a COBRA member terminates at 11:59 p.m. on the last day that the COBRA member is eligible for coverage under COBRA or of the period for which the last insurance premium was paid.
- F.** By providing written notice to the Director at any time, an employee, officer, or former elected official, as applicable, may cease purchasing:
  - 1. Supplemental life insurance in excess of \$35,000;
  - 2. Life insurance for an eligible dependent; or
  - 3. Short-term disability insurance.

**R2-6-108. Expired COBRA**

- A.** When a member or an insured eligible dependent ceases to be eligible to participate in the health, dental, or vision insurance plans made available by the Department because of a change in the work status of the member, the Director shall inform the member or eligible dependent of whether the member or eligible dependent is eligible for coverage under COBRA.
- B.** When an insured eligible dependent of a member ceases to be eligible to participate in the health, dental, or vision insurance plans made available by the Department because the member dies or because of divorce, legal separation, termination of domestic partnership, or ceasing to meet the criteria for a child, older child, or disabled older child, the member or affected dependent shall provide written notice of the change to the Director within 60 days of the change. The Director shall inform the affected dependent whether the affected dependent is eligible for coverage under COBRA. The Department shall not make COBRA coverage available to an affected dependent if notice is not provided as specified in this subsection.
- C.** When an employee or officer ceases to be eligible for a health care flexible spending account because of termination of status as an employee or officer, the Director shall inform the former employee or officer and all qualified beneficiaries of whether they are eligible for coverage under COBRA.
- D.** The state shall not pay any of the cost for COBRA coverage. An individual who elects COBRA coverage shall pay all costs plus a small amount for administrative expenses.
- E.** COBRA coverage is determined by federal law.



ARTICLE 2. ~~EXPIRED~~ INSURANCE PLANS

**R2-6-201. ~~Expired Insurance Plans~~**

The Department shall make available the following types of insurance plans:

1. Health insurance.
2. Dental insurance.
3. Vision insurance.
4. Flexible spending account.
5. Life insurance, and
6. Short-term disability insurance.

**R2-6-202. ~~Expired Long-term Disability Insurance~~**

- A. The state shall automatically enroll an employee or officer in a long-term disability insurance plan. The long-term disability insurance plan in which an employee or officer is enrolled depends on the state-sponsored retirement plan to which the employee or officer contributes.
- B. The state may offset the amount that an employee or officer receives under a long-term disability insurance plan by amounts that the employee or officer receives as Social Security payments, retirement benefits, and other disability benefits.

**R2-6-203. ~~Expired Flexible Spending Accounts~~**

- A. The state shall provide an employee or officer with the opportunity to establish a flexible spending account for:
  1. Health-care expenses.
  2. Dependent-care expenses, or
  3. Both health-care and dependent-care expenses.
- B. An employee or officer who elects to establish a flexible spending account shall annually sign a salary reduction order specific for the flexible spending account.
- C. A flexible spending account is regulated by federal law.

**R2-6-204. ~~Expired Employee Flexible Benefit Plan~~**

- A. The Director shall ensure that the premium paid by an employee or officer for participation in the insurance plans listed in R2-6-201(1) through (3) and for a maximum of \$35,000 in supplemental life insurance and the amount set aside in a flexible spending account reduces the employee's or officer's compensation as allowed by Section 125 of the Internal Revenue Code.
- B. The Director shall ensure that the premium paid by an employee or officer to enroll a pre-tax dependent in the insurance plans listed in R2-6-201(1) through (3) reduces the employee's or officer's compensation as allowed by Section 125 of the Internal Revenue Code.
- C. The Director shall ensure that the amount paid by the state to enable a post-tax dependent of an employee or officer to participate in the insurance plans listed in R2-6-201(1) through (3) increases the employee's or officer's compensation and is taxed as required by law.
- D. If an employee or officer experiences a qualified life event during a plan year that adds or deletes a pre-tax or post-tax dependent, the Director shall ensure that the compensation of the employee or officer is adjusted accordingly and taxed as required by law.
- E. The Director shall ensure that the method of adjusting an employee's or officer's compensation under this Section is not changed or canceled until the end of a plan year.

**R2-6-205. ~~Expired Performance Standards for Health, Dental, and Vision Insurance Plans~~**

As required under A.R.S. § 38-651, the Department establishes and shall require that a plan provider comply with the following minimum performance standards:

1. Cost competitiveness. A plan provider shall offer the Department a discount from full-billed charges that is significant and an administrative fee that is reasonable when compared with the discount and administrative fee of other potential plan providers.
2. Utilization review. A plan provider of medical management services shall employ utilization review standards that are generally accepted in the industry and specified by the Department in contract.
3. Network development and access. A plan provider of a medical network shall comply with the access and availability requirements that the Department develops based on the location of participants and specifies in contract.
4. Conversion and implementation. A plan provider shall fully perform in accordance with all requirements that the Department specifies in contract from the date on which the contract begins until the date on which the contract ends or is terminated after giving proper notice.
5. Report accuracy and timeliness. A plan provider shall ensure that all reports are complete, accurate, and submitted as specified in contract.
6. Quality outcomes. A plan provider shall comply with the quality-outcome standards that the Department specifies in contract. The Department may offset expenses, costs, or damages incurred as a result of the plan provider failing to

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- comply with the specified quality-outcome standards against any sums due to the plan provider.
7. Customer satisfaction. The Department shall annually measure the extent to which participants are satisfied with a plan provider's services.

**ARTICLE 3. ~~EXPIRED~~ ELIGIBILITY CRITERIA**

**R2-6-301. ~~Expired~~ Eligibility to Participate in Health, Dental, and Vision Insurance Plans**

- A.** Employees, officers, and retirees. An employee, officer, or retiree may participate in the health, dental, and vision insurance plans made available by the Department by enrolling at the time specified in R2-6-105 and agreeing to pay the contracted cost of each insurance plan chosen.
- B.** Former elected officials. A former elected official may participate in the health, dental, and vision insurance plans made available by the Department if the former elected official:
  1. Has at least five years of credited service in the Elected Officials' Retirement Plan established at A.R.S. § 38-802;
  2. Participated in a group health, dental, or vision insurance plan made available to elected officials at the time of leaving office;
  3. Served as an elected official on or after January 1, 1983;
  4. Enrolls at the time specified in R2-6-105; and
  5. Agrees to pay the contracted cost of the insurance plan.
- C.** Eligible dependents. A member may enroll an eligible dependent in the health, dental, and vision insurance plans made available by the Department at the time specified in R2-6-105. The member who enrolls an eligible dependent shall pay the contracted cost of the insurance plan.
- D.** Surviving dependents. A surviving dependent, as defined at R2-6-101, may continue coverage under the health, dental, and vision insurance plans made available by the Department by enrolling at the time specified in R2-6-105 and paying the contracted cost of the insurance plan.
- E.** Surviving spouse. A surviving spouse, as defined at R2-6-101, may continue coverage under the health, dental, and vision insurance plans made available by the Department by enrolling at the time specified in R2-6-105 and paying the contracted cost of the insurance plan.
- F.** Eligibility exception. An employee or officer who is on approved leave without pay and the enrolled eligible dependents of the employee or officer may continue enrollment in the health, dental, and vision insurance plans made available by the Department under the conditions in:
  1. R2-5-405 if the employee or officer is on approved leave without pay because of an industrial illness or injury;
  2. R2-5-413 if the employee or officer is on approved medical leave without pay; and
  3. R2-5-414 if the employee or officer is on approved leave without pay for another reason.
- G.** Coverage of a newborn infant.
  1. The state shall provide health insurance to an infant born to a member or the member's spouse from the time the infant is born until the infant reaches its 31st day. To ensure that the infant continues to have health insurance coverage, the member shall enroll the infant in the health insurance plan made available by the Department before the infant reaches its 31st day.
  2. In compliance with the Newborns' and Mothers' Health Protection Act of 1996, the state shall provide health insurance to an infant born to a member's eligible dependent other than the member's spouse. As permitted under the Newborns' and Mothers' Health Protection Act of 1996, the state shall limit health insurance provided under this subsection to 48 hours for a vaginal delivery and 96 hours for delivery by cesarean section. A member who wishes to obtain health insurance for the infant beyond the time required under the Newborns' and Mothers' Health Protection Act of 1996, may enroll the infant in the health insurance plan made available by the Department if the infant is eligible.

**R2-6-302. ~~Expired~~ Eligibility to Participate in Life and Short-term Disability Insurance Plans**

- A.** Employees and officers.
  1. Life insurance. An employee or officer may participate in the life and short-term disability insurance plans made available by the Department by enrolling at the time specified in R2-6-105. The state shall provide basic life insurance to an employee or officer at no charge.
  2. Short-term disability insurance. An employee or officer who chooses to participate in the short-term disability insurance plan made available by the Department shall agree to pay the contracted cost of the plan.
  3. Supplemental life insurance. The state shall make supplemental life insurance available to an employee or officer. An employee or officer may purchase an amount of supplemental life insurance that, when combined with basic life insurance, does not exceed three times the employee's or officer's base pay, rounded down to the nearest \$5,000 or the maximum amount established by the Director, whichever is less. An employee or officer who chooses to participate in the supplemental life insurance plan shall agree to pay the contracted cost for the supplemental life insurance.
- B.** Former elected officials. A former elected official may purchase life insurance made available by the Department if the former elected official meets the criteria at R2-6-301(B)(1) and (B)(3).
- C.** Eligible dependents. An employee, officer, or former elected official who meets the criteria at R2-6-301(B)(1) and (B)(3)

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may purchase life insurance through the plan made available by the Department for an eligible dependent in an amount determined by the Director. An employee, officer, or former elected official who chooses to purchase life insurance for an eligible dependent shall agree to pay the contracted cost for the life insurance.

- D.** Surviving spouse of a former elected official. Under A.R.S. § 38-651.02(C), the surviving spouse of a former elected official who met the criteria at R2-6-301(B)(1) and (B)(3) at the time of death may continue to purchase life insurance through the plan made available by the Department if the surviving spouse:
1. Makes application within the time specified in R2-6-105;
  2. Agrees to pay the contracted cost for the life insurance; and
  3. Is receiving a monthly survivor's retirement check from the Elected Officials' Retirement Plan.

**R2-6-303. ~~Expired~~ Audit of Dependent Eligibility**

- A.** A member shall not enroll an individual in an insurance plan made available by the Department unless the individual is an eligible dependent as defined in R2-6-101.
- B.** The Department shall conduct audits to determine whether individuals enrolled by members in an insurance plan made available by the Department are eligible dependents. The Department shall choose a particular member for audit either randomly or in response to uncertainty concerning dependent eligibility.
- C.** If a member is chosen for audit, the Department shall provide the member with written notice and 60 days in which to produce evidence that an individual enrolled by the member in an insurance plan made available by the Department is an eligible dependent. Evidence of dependent eligibility may include one or more of the following:
1. Marriage certificate.
  2. Birth certificate.
  3. Documentation of lawful presence in the U.S.,
  4. Documentation of sharing a permanent residence and financial interdependence as described in R2-6-101(19).
  5. Receipts for insurance payments made while on leave without pay.
  6. Court order regarding adoption or placement for adoption.
  7. Court order regarding guardianship.
  8. Documentation of foster-child placement.
  9. Tax return.
  10. School registration form or transcript.
  11. Declaration of disability from the Social Security Administration.
  12. Documentation of Arizona residence, or
  13. Other documentation acceptable to the Director.
- D.** If a member chosen for audit fails to produce evidence of dependent eligibility within the time specified in subsection (C), the Department shall:
1. Terminate insurance coverage of the individual whose eligibility was not proven;
  2. Require that the member reimburse the Department for all premiums and claims paid since October 1, 2004, on behalf of the individual whose eligibility was not proven; and
  3. Report an employee or officer who misrepresented dependent eligibility to the employee's or officer's agency for possible disciplinary action.

**ARTICLE 4. ~~EXPIRED~~ APPEALS AND GRIEVANCES**

**R2-6-401. ~~Expired~~ Appeal of a Plan-provider Decision**

- A.** The Department has delegated to each plan provider the authority to:
1. Interpret and apply the terms of the plan provider's particular insurance plan;
  2. Determine whether a particular benefit is included in the plan and, if included, the amount of payment to be made under the plan; and
  3. Perform a full and fair review of any decision by the plan provider regarding benefits included in or payments to be made under the plan if the decision is appealed in accordance with the plan provider's specified procedures.
- B.** An individual who is enrolled in an insurance plan made available by the Department and who wishes to appeal a decision by the plan provider shall follow the appeal procedures specified in the applicable plan description.

**R2-6-402. ~~Expired~~ Grievance of a Department Decision**

- A.** An individual who participates in one or more of the insurance plans made available by the Department may file a grievance with the Director regarding:
1. Determination of creditable coverage.
  2. Determination of whether a medical child support order is qualified.
  3. Determination of eligibility.
  4. Dissatisfaction with care.
  5. Dissatisfaction with an insurance plan.
  6. Dissatisfaction with a plan provider.

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- 7. Access to care, and
- 8. Inconsistent application of statute or rule.
- B.** To file a grievance, an individual shall submit a letter to the Director that contains the following information:
  - 1. Name and contact information of the individual filing the grievance.
  - 2. Name of the particular insurance plan that is the subject of the grievance.
  - 3. Nature of the grievance, and
  - 4. Nature of the resolution requested.
- C.** The Director shall provide a written response to a grievance within 60 days.

**NOTICE OF FINAL RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
ARIZONA LONG-TERM CARE SYSTEM**

[R09-16]

**PREAMBLE**

**1. Sections Affected**

R9-28-1301  
R9-28-1302  
R9-28-1303  
R9-28-1304  
R9-28-1305  
R9-28-1307  
R9-28-1308  
R9-28-1309  
R9-28-1309  
R9-28-1310  
R9-28-1311  
R9-28-1312  
R9-28-1313  
R9-28-1314  
R9-28-1315  
R9-28-1316  
R9-28-1317  
R9-28-1318  
R9-28-1319  
R9-28-1320  
R9-28-1322

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Repeal  
New Section  
Repeal  
Repeal  
Repeal  
Amend  
Repeal  
Repeal  
Amend  
Repeal  
Repeal  
Repeal  
Amend  
Repeal

**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. §§ 36-2901, 36-2903.01(F)  
Implementing statutes: A.R.S. §§ 36-2903.01(F), 36-2929

**3. The effective date of the rules:**

March 7, 2009

**4. A list of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 14 A.A.R. 3501, September 5, 2008  
Notice of Proposed Rulemaking: 14 A.A.R. 3737, October 3, 2008

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson St., Mail Drop 6200  
Phoenix, AZ 85034

Notices of Final Rulemaking

Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov

**6. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Administration made the following changes to this rulemaking pursuant to a Five-year Review Report approved by the Governor's Regulatory Review Council on August 5, 2008.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

No study was reviewed during this rulemaking and the Agency does not anticipate reviewing any studies.

**8. 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

**9. The summary of the economic, small business, and consumer impact:**

It is anticipated that the contractors, private sector, members, providers, small businesses, political subdivisions, and the Administration will be minimally impacted by the changes to the rule language. The areas requiring revision are for clarity as a result of a Five-year Rule Review approved by the Governor's Regulatory Review Council.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

No substantive changes have been made between the proposed rules and the final rules. The Administration made the rules more clear, concise, and understandable by making grammatical, verb tense, punctuation, and structural changes throughout the rules.

**11. A summary of the comments made regarding the rule and the agency response to them:**

The Administration did not receive any comments regarding the rules.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

No

**15. The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
ARIZONA LONG-TERM CARE SYSTEM

ARTICLE 13. FREEDOM TO WORK

Section

- R9-28-1301. General Freedom to Work Requirements
- R9-28-1302. General Administration Requirements
- R9-28-1303. Application for Coverage
- R9-28-1304. Notice of Approval or Denial
- R9-28-1305. Reporting and Verifying Changes
- R9-28-1307. Notice of Adverse Action Requirements
- R9-28-1308. Request For Hearing
- R9-28-1309. ~~Social Security Number~~ Conditions of Eligibility
- R9-28-1310. ~~State Residency~~ Repealed
- R9-28-1311. ~~Citizenship and Immigrant Status~~ Repealed
- R9-28-1312. ~~Age~~ Repealed
- R9-28-1313. Premium Requirements
- R9-28-1314. ~~Income~~ Repealed

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- R9-28-1315. ~~Living Arrangement Repealed~~
- R9-28-1316. Institutionalized Person
- R9-28-1317. ~~Medical Eligibility Repealed~~
- R9-28-1318. ~~Non Payment of Premium Repealed~~
- R9-28-1319. ~~Applicant and Member Responsibility Repealed~~
- R9-28-1320. Additional Eligibility Criteria for the Basic Coverage Group
- R9-28-1322. ~~Premium Amount Repealed~~

ARTICLE 13. FREEDOM TO WORK

**R9-28-1301. General Freedom to Work Requirements**

~~Under 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI), the Administration shall determine eligibility for AHCCCS medical services, under Article 2 of this Chapter, using the eligibility criteria and requirements under this Article for an applicant or member who is:~~

- ~~1. At least 16 years of age, but less than 65 years of age;~~
- ~~2. Employed; and~~
- ~~3. Not income or resource eligible under A.R.S. § 36-2934.~~

~~The Administration shall determine eligibility for AHCCCS medical services under Article 2 of this Chapter and A.A.C. R9-22-1901.~~

**R9-28-1302. General Administration Requirements**

~~The Administration shall comply with the confidentiality rule under R9-28-401(H), Title VI compliance rule under R9-28-401(I) and transitional rule under R9-28-411(E). Terms used in this Article are defined in Article 1 of this Chapter unless otherwise specified A.A.C. R9-22-512(C).~~

**R9-28-1303. Application for Coverage**

- A. A person may apply by submitting a signed an application to an Administration office.
- B. The application date is the date the application is received at an Administration office.
- C. The provisions of A.A.C. ~~R9-22-1405(B), (C), and (E)~~ R9-22-1406(B) and (D) apply to this Section.
- D. An applicant or representative who files an application may withdraw the application ~~for coverage~~ either orally or in writing. The Administration shall send an applicant withdrawing an application a denial notice under R9-28-1304.
- E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

**R9-28-1304. Notice of Approval or Denial**

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action; and:

- 1. If approved, ~~the notice shall contain:~~
  - a. The effective date of eligibility,
  - b. The amount the person shall pay, and
  - c. An explanation of the person's hearing rights specified in ~~Article 8 of this Chapter~~ 9 A.A.C. 34; or
- 2. If denied, ~~R9-28-401(G)(2) the information required by R9-28-401.01(G)(2) applies.~~

**R9-28-1305. Reporting and Verifying Changes**

An applicant or member shall report and verify changes; as described under ~~R9-28-411(A)(2), (3), (4), and (5)~~ R9-28-411(A), to the Administration the following changes; including any changes in the spouse's income that may affect the share of cost.

- 1. ~~Change of address;~~
- 2. ~~Change in income;~~
- 3. ~~Change in employment status;~~
- 4. ~~Change in school attendance if under age 22;~~
- 5. ~~Change in Arizona state residency;~~
- 6. ~~Change in first- or third-party liability which may contribute to the payment of all or a portion of the person's medical costs;~~
- 7. ~~Admission to a public institution;~~
- 8. ~~Admission to an Institution for Mental Disease;~~
- 9. ~~Improvement in the person's medical condition;~~
- 10. ~~Death;~~
- 11. ~~Change in U.S. citizenship or immigrant status;~~
- 12. ~~Change in disability status;~~
- 13. ~~Change in spouse's income that may affect the share of cost;~~
- 14. ~~Change in impairment related work or other expenses; or~~
- 15. ~~Any other change that may affect the member or applicant's eligibility or share of cost.~~

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**R9-28-1307. Notice of Adverse Action Requirements**

- A. The requirements under R9-28-411(D)(1) apply.
- B. Advance notice of a change in eligibility, share of cost, or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to:
  - 1. Discontinue eligibility,
  - 2. Increase a person's share-of-cost,
  - 3. Increase the premium amount, or
  - 4. Reduce benefits from ALTCS to acute care services.
- C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:
  - 1. A member provides a clearly written statement, signed by that member, that services are no longer wanted;
  - 2. A member provides information that requires termination of eligibility or reduction of services, indicates that the member understands that termination of eligibility or reduction of services will be the result of supplying the information and a member signs a written statement waiving advance notice;
  - 3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable, A member whose eligibility is discontinued under this subsection is subject to reinstatement of discontinued services under 42 CFR 431.231(d);
  - 4. A member has been admitted to a public institution where a person is ineligible for coverage;
  - 5. A member has been approved for Medicaid in another state; or
  - 6. The Administration receives information confirming the death of a member.

**R9-28-1308. Request for Hearing**

An applicant or member may request a hearing under 9 A.A.C. 34, Article 8 of this Chapter for the following adverse actions:

- ~~1. The determination of a premium amount under R9-28-1322, and~~
- ~~2. Actions listed in R9-28-803.~~

**R9-28-1309. Social Security Number Conditions of Eligibility**

As a condition of eligibility, an applicant shall furnish a valid SSN.

An applicant or member shall meet the following conditions to qualify for the Freedom to Work program:

- 1. Furnish a valid Social Security Number (SSN);
- 2. Be a resident of Arizona;
- 3. Be a citizen of the United States, or meet requirements for a qualified alien under A.R.S. § 36-2903.03(B);
- 4. Be at least 16 years of age, but less than 65 years of age;
- 5. Have countable income that does not exceed 250 percent of FPL. The Administration shall count income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
  - a. The unearned income of the applicant or member shall be disregarded,
  - b. The income of a spouse or other family members shall be disregarded, and
  - c. The deduction for a minor child shall not apply;
- 6. Reside in a living arrangement specified under R9-28-406(A);
- 7. Be determined as physically disabled by meeting the medical criteria under Article 3 of this Chapter; and
- 8. Comply with the member responsibility provisions under A.A.C. R9-22-1502(D) and (F).

**R9-28-1310. State Residency Repealed**

~~As a condition of eligibility, an applicant or member shall be a resident of Arizona.~~

**R9-28-1311. Citizenship and Immigrant Status Repealed**

~~As a condition of eligibility an applicant or member shall be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B).~~

**R9-28-1312. Age Repealed**

~~As a condition of eligibility an applicant or member shall be at least 16 years of age, but less than 65 years of age.~~

**R9-28-1313. Premium Requirements**

~~As a condition of eligibility, an applicant or member shall pay the premium required under R9-28-1322.~~

**A. As a condition of eligibility, an applicant or member shall:**

- 1. Pay the premium required under subsection (B).
- 2. Not have any unpaid premiums that exceed the premium amount for one month.

**B. The Administration shall process premiums under 9 A.A.C. 31, Article 14 with the following exceptions:**

- 1. A member who has countable income:
  - a. Under \$500, the monthly premium payment shall be \$0.
  - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.

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- 2. ~~The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.~~

**R9-28-1314. ~~Income Repealed~~**

~~As a condition of eligibility, an applicant or member's countable income shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:~~

- ~~1. The unearned income of the applicant or member shall be disregarded,~~
- ~~2. The income of a spouse or other family members shall be disregarded, and~~
- ~~3. The deduction for a minor child shall not apply.~~

**R9-28-1315. ~~Living Arrangement Repealed~~**

~~As a condition of eligibility, an applicant or member shall reside in a living arrangement defined under R9-28-406(A).~~

**R9-28-1316. Institutionalized Person**

A person is not eligible for AHCCCS medical coverage if the person is:

- 1. An inmate of a public institution ~~if~~ and federal financial participation (FFP) is not available, or
- 2. ~~Age 21 through age 64~~ Older than age 20 but younger than age 65 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD waiver or allowed under a managed care contract approved by ~~with~~ CMS.

**R9-28-1317. ~~Medical Eligibility Repealed~~**

~~As a condition of eligibility, an applicant or member shall meet the medical criteria under Article 3 of this Chapter.~~

**R9-28-1318. ~~Non-Payment of Premium Repealed~~**

~~As a condition of eligibility, an applicant shall not have unpaid premiums as defined under R9-28-1322.~~

**R9-28-1319. ~~Applicant and Member Responsibility Repealed~~**

~~As a condition of eligibility, an applicant or member shall comply with the provisions under A.A.C. R9-22-1502(D) and R9-22-1502(F).~~

**R9-28-1320. Additional Eligibility Criteria for the Basic Coverage Group**

As a condition of eligibility, An ~~an~~ applicant or member shall ~~meet the following eligibility criteria:~~

- ~~1. Disabled. An applicant or member shall meet the requirements under Article 3 of this Chapter.~~
- ~~2. Employed. As a condition of eligibility, an applicant or member shall be employed. Employed means that an applicant or member is paid for working and Social Security or Medicare taxes are paid on the applicant's or member's work income.~~

**R9-28-1322. ~~Premium Amount Repealed~~**

~~The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:~~

- ~~1. A member who resides in a HCBS setting under R9-28-406(A)(2) and has countable income:
 
  - a. Under \$500, the monthly premium payment shall be \$0.
  - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.~~
- ~~2. The premium for a member who resides in a HCBS setting under R9-28-406(A)(2) shall be increased by \$5 for each \$250 increase in countable income above \$750.~~
- ~~3. For a member living in a medical institution for a full calendar month, the monthly premium payment shall be \$0.~~

**NOTICE OF FINAL RULEMAKING**

**TITLE 13. PUBLIC SAFETY**

**CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY  
CRIMINAL IDENTIFICATION SECTION**

[R09-06]

**PREAMBLE**

**1. Sections Affected**

- R13-1-101
- R13-1-102
- R13-1-106
- R13-1-108
- R13-1-109

**Rulemaking Action**

- Amend
- Amend
- Amend
- Amend
- Renumber



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R13-1-109	New Section
R13-1-110	New Section
R13-1-111	Renumber
R13-1-111	Amend

- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 41-1750(H)  
Implementing statute: A.R.S. §§ 41-1750(G)(7) and 41-2204(6)
- 3. The effective date for the rules:**  
March 7, 2009
- 4. List of all previous notices appearing in the Register addressing the final rules:**  
Notice of Rulemaking Docket Opening: 14 A.A.R. 3442, August 29, 2008  
Notice of Proposed Rulemaking: 14 A.A.R. 3948, October 17, 2008
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Lt. Laurence V. Burns  
Address: P. O. Box 6638  
Mail drop 2050  
Phoenix, AZ 85005-6638  
Telephone: (602) 223-2404  
Fax: (602) 223-2978  
E-mail: lburns@azdps.gov
- 6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**  
The Department is required to conduct hearings to determine the accuracy of criminal history record information when the individual who is the subject of the information submits a petition for review. In this rulemaking, the Department is clarifying that the hearings will be conducted according to the procedures in A.R.S. Title 41, Chapter 6, Article 10 and the rules issued by the Office of Administrative Hearings. The Department is also making other minor clarifying changes. This rulemaking relates, in part, to a Five-year Review Report approved by the Council on December 2, 2008.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
None
- 8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**  
Because the rulemaking simply clarifies existing procedure, the economic impact is minimal.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
Only minor, non-substantive changes were made between the proposed and final rules.
- 11. A summary of the comments made regarding the rules and the agency response to them:**  
The Department received no comments regarding the rules.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
None
- 13. Incorporations by reference and their location in the rule:**  
None
- 14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**  
No
- 15. The full text of the rules follows:**

TITLE 13. PUBLIC SAFETY

CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY  
CRIMINAL IDENTIFICATION SECTION

ARTICLE 1. CRIMINAL HISTORY RECORDS

Section

- R13-1-101. Definitions
- R13-1-102. Submission and Retention of Criminal Justice Information
- R13-1-106. Arrest Fingerprint Record Submission
- R13-1-108. Procedures for Challenging the Accuracy and Completeness of Criminal History Records
- R13-1-109. Hearing Procedures
- R13-1-110. Review or Rehearing of the Director's Decision
- ~~R13-1-109~~-R13-1-111. Information Deemed Useful for the Study and Prevention of Crime or the Administration of Criminal Justice

ARTICLE 1. CRIMINAL HISTORY RECORDS

**R13-1-101. Definitions**

In addition to the definitions in A.R.S. §§ 41-1750 and 41-2201, the following definitions apply to this Chapter:

1. No change
2. No change
3. "ADRS" means the Arizona Disposition Reporting System, which is maintained by the Department and supports electronic submission of disposition information to the central state repository.
- ~~3-4.~~ No change
- ~~4-5.~~ No change
- 5-6. "Arresting agency case number (OCA)" means a unique identifier consisting of a combination of 15 numbers and letters used to identify a criminal justice agency's case number such as the Department case number, Department report number, or case report number. The first three characters are the AZAFIS-assigned alpha characters that identify the arresting agency.
- ~~6-7.~~ No change
- ~~7-8.~~ No change
- ~~8-9.~~ No change
- ~~9-10.~~ No change
- ~~10-11.~~ No change
- ~~11-12.~~ "Date of Arrest arrest" means the date a person is taken into custody using the MMDDCCYY format as indicated in Exhibit A.
- ~~12-13.~~ "Date of Birth birth" means the subject's date of birth using MMDDCCYY format as indicated in Exhibit A.
- ~~13-14.~~ No change
- ~~14-15.~~ No change
15. "Hit confirmation" means to verify a record entry with the agency that holds the record.
16. "Hot files" means records entered into ACJIS. These records may include those regarding wanted persons and stolen vehicles.
17. No change
18. No change
19. "Local Subject Identifier (LSI) LSI" means local subject identifier, a unique identifier consisting of a combination of 15 numbers and letters used by local law enforcement agencies to identify an individual. It is the local equivalent of a State Identification (SID) number. The first three characters are the AZAFIS-assigned mnemonic alpha characters that identify the agency.
20. No change
21. No change
22. No change
23. No change
24. No change
25. "Offense Type type" means whether the a designation that indicates whether an offense is a felony, designated as "F," or a misdemeanor, designated as "M."
26. No change
27. No change
28. No change
29. "Photo contact sheet" means an 8" X 10" photo paper containing pictures from an entire roll of film.
- ~~30-29.~~ "Place of Birth birth (state or country)" means the state or country in which a subject's place of birth subject of

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record was born.

31. ~~“Private Entity” means a non-governmental agency or company.~~

32. ~~“Redact” means to edit a record based on legal considerations or to withhold sensitive or private, personal information.~~

33-30. No change

34-31. ~~“Terminal Operator Certification Level A” means a terminal operator who is authorized to access the ACJIS network for entering, updating, clearing, or canceling records; conducting inquiries; and interpreting responses.~~

35-32. No change

36-33. No change

37-34. No change

35. ~~“Terminal Operator Certification Level F” means a terminal operator who is authorized to inquire into, enter information into, or modify information in the ADRS.~~

38-36. No change

39. ~~“Uniform Crime Reporting (UCR)” means a collective effort on the part of city, county, state, tribal, and federal law enforcement agencies to present a nationwide view of crime.~~

**R13-1-102. Submission and Retention of Criminal Justice Information**

A. No change

1. No change

2. A law enforcement agency shall submit any corrections to previously submitted arrest fingerprints to the Department by fax or mail on the “Correction of Arrest Information” form available from the Department. The Department’s Central State Repository shall correct the record as requested. Corrections to or deletion of arrest records may only be requested by the arresting or booking agency ~~that created the arrest record~~. The Correction of Information form includes:

a. Name of the person authorizing the correction or deletion;

~~a-b.~~ Agency name, and ORI, and telephone and fax numbers;

~~b-c.~~ PCN;

~~e-d.~~ SID; and

e. Subject of record’s name and date of birth;

f. Arresting agency case number;

g. Date of arrest; and

~~d-h.~~ Correction or deletion needed.

3. Law enforcement agencies, prosecutors’ offices, and courts shall submit dispositions related to an arrest fingerprint to the Department’s Central State Repository within 40 days from the ~~date of~~ disposition date.

4. No change

5. A county medical examiner shall provide to the Department’s Central State Repository a full set of ten inked and rolled fingerprints of a deceased person whose death is required to be investigated by the county medical examiner’s office. The Department shall search the fingerprints to determine if whether any criminal record is maintained and, if so, update the record to indicate notification of the death. The county medical examiner shall ensure that the complete fingerprint record submitted to the Department includes:

a. No change

b. ~~Date of birth~~ Date of birth, and

c. No change

B. The Department’s Central State Repository shall retain a criminal history record until the subject of record ~~either~~ reaches age 99 or one year after the Department receives notice of the subject of record’s death ~~notification~~.

**R13-1-106. Arrest Fingerprint Record Submission**

A. No change

1. No change

2. No change

3. No change

B. No change

C. A criminal justice agency ~~utilizing~~ using the ink-and-roll method of fingerprinting shall obtain blank arrest fingerprint cards from the FBI using the CJIS Supply Requisition Form (I-178).

D. A completed arrest fingerprint record contains the following information:

1. About the individual arrested:

~~1-a.~~ Name;

~~2-b.~~ Date of birth;

~~3-c.~~ Personal identifiers;

~~4-d.~~ Juvenile fingerprinted, if applicable; and

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- e. Place of birth;
- ~~5-2.~~ Date of arrest;
- ~~6-3.~~ ORI, and arresting agency's name and address;
- ~~7-4.~~ Date of offense;
- 5. Local identification/reference:
  - a. LSI and arresting agency case number are required;
  - b. Local file number and agency tracking number are optional;
- 6. Citation information/charge description. Citation to the state, county, or city code allegedly violated and description of charge, i.e., A.R.S. § 13-1802, theft.
- 7. Offense type:
  - a. Designate a felony with an "F.;"
  - b. Designate a misdemeanor with an "M.;"
- ~~8.~~ Place of birth (state or country);
- ~~9.~~ Arresting agency case number;
- ~~10.~~ LSI;
- ~~11.~~ Offense;
- ~~12-8.~~ Court ORI;
- ~~13-9.~~ PCN;
- ~~14-10.~~ Name or identification number of official taking fingerprints; and
- ~~15-11.~~ Arrest fingerprints.

**R13-1-108. Procedures for Challenging the Accuracy and Completeness of Criminal History Records**

- A. To challenge a criminal history record, the subject of record or the subject of record's attorney shall complete and return the Review and Challenge of Arizona Criminal History Record Information form referenced in R13-1-107(F) within 35 days of the date of the response referenced in R13-1-107(F).
- B. No change
  - 1. No change
  - 2. No change
  - 3. No change
- C. If the Department determines that a correction to or deletion from ~~of~~ the criminal history record is necessary, the Department shall modify the record and notify the Federal Bureau of Investigation.
- D. Upon conclusion of the audit referenced in subsection (B), the Department shall send written notification of the audit result and a copy of any record modification to the subject of record or the subject of record's attorney.
- E. The Department shall include in the notice of audit result referenced in subsection (D) a statement that the subject of record may request a hearing to determine the accuracy of the criminal history record. To request a hearing, the subject of record or the subject of record's attorney shall submit to the Department a written request within 35 days of the date of the notice of audit result referenced in subsection (D).

**R13-1-109. Hearing Procedures**

- A. Under A.R.S. § 41-2204(6), a hearing shall be conducted after receipt of a request for a hearing to determine the accuracy of information in a criminal history record maintained by the Central State Repository.
- B. The Office of Administrative Hearing shall conduct a hearing to determine the accuracy of information in a criminal history record maintained by the Central State Repository in accordance with the procedures in A.R.S. Title 41, Chapter 6, Article 10 and the rules issued by the Office of Administrative Hearings.
- C. Under A.R.S. § 41-1092.08, within 30 days after the Office of Administrative Hearings sends the administrative law judge's recommended decision to the Director, the Director shall review the recommended decision and may accept, modify, or reject it.

**R13-1-110. Review or Rehearing of the Director's Decision**

- A. In accordance with A.R.S. § 41-1092.09, a party may file with the Department a motion for rehearing or review of a decision issued by the Director under R13-1-109.
- B. A party may amend a motion for rehearing or review at any time before the Department rules on the motion.
- C. The Department may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
  - 1. Irregularity in the proceedings or any order or abuse of discretion that deprived the moving party of a fair hearing;
  - 2. Misconduct of the Director, Department staff, or an administrative law judge;
  - 3. Accident or surprise that could not have been prevented by ordinary prudence;
  - 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
  - 5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
  - 6. The findings of fact are not justified by the evidence or the decision is contrary to law.

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- D.** The Department may affirm or modify a decision or grant a rehearing or review on all or some of the issues for any of the reasons listed in subsection (C). The Department shall specify with particularity the grounds for an order modifying a decision or granting a rehearing or review. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- E.** Not later than 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Department may, on its own initiative, order a rehearing or review of the decision for any reason listed in subsection (C). The Department may grant a motion for rehearing or review, timely served, for a reason not stated in a motion.
- F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service of the motion, serve response affidavits. The Department may extend this period for a maximum of 20 days for good cause or by written stipulation of the parties. The Department may permit reply affidavits.
- G.** If, in a particular decision, the Director makes a specific finding that the immediate effectiveness of the decision is necessary for preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision shall be issued as a final decision without an opportunity for a rehearing or review.

**~~R13-1-109~~ R13-1-111. Information Deemed Useful for the Study and Prevention of Crime or the Administration of Criminal Justice**

- A.** No change
  - 1. Provide a written or electronic request to the Department that specifies the purpose of the study, or how the records will be used to prevent crime or administer criminal justice; and
  - 2. No change
- B.** No change

**NOTICE OF FINAL RULEMAKING**

**TITLE 17. TRANSPORTATION**

**CHAPTER 8. DEPARTMENT OF TRANSPORTATION  
FUEL TAXES**

[R09-08]

**PREAMBLE**

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b>1. <u>Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| Article 5                          | New Article                     |
| R17-8-501                          | New Section                     |
| R17-8-502                          | New Section                     |
| R17-8-503                          | New Section                     |
| R17-8-504                          | New Section                     |
| R17-8-505                          | New Section                     |
| R17-8-506                          | New Section                     |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
    - Authorizing statute: A.R.S. § 28-366
    - Implementing statutes: A.R.S. §§ 28-374, 28-5618, 28-5619, 28-5620 and 28-5930
  - 3. The effective date of the rules:**
    - March 7, 2009
  - 4. A list of all previous notices appearing in the Register addressing the final rules:**
    - Notice of Rulemaking Docket Opening: 14 A.A.R. 3188, August 8, 2008
    - Notice of Proposed Rulemaking: 14 A.A.R. 3178, August 8, 2008
  - 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
    - Name: John Lindley, Administrative Rules Analyst
    - Address: Administrative Rules Unit  
Department of Transportation, Motor Vehicle Division  
1801 W. Jefferson St., Mail Drop 530M  
Phoenix, AZ 85007

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Telephone: (602) 712-8804  
Fax: (602) 712-3081  
E-mail: jlindley@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at [www.azdot.gov/mvd/mvdrules/rules.asp](http://www.azdot.gov/mvd/mvdrules/rules.asp).

**6. An explanation of the rules, including the agency's reason for initiating the rule:**

The Arizona Department of Transportation, Motor Vehicle Division, initiated this rulemaking to prescribe the procedures, reporting, and records maintenance requirements necessary to administer its electronic fuel tax reporting program.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

**8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

The agency anticipates incurring moderate costs to develop and implement the Electronic Fuel Tax Reporting Program. The agency anticipates substantial, although not quantifiable, benefits due to reduced processing costs and more timely availability of accurate filing of fuel tax data.

The agency anticipates businesses may incur minimal costs associated with programming and the initial set up of administrative procedures. However, it is anticipated that licensees will benefit from the use of approved software for electronic fuel tax report filing that will allow licensees to reduce human error and store reports on their computers.

There should be no costs to private persons and consumers from these rules. Benefits will be enhanced funding for transportation related items.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Minor grammatical and style corrections were made at the request of Governor's Regulatory Review Council staff.

**11. A summary of the comments made regarding the rules and the agency response to them:**

Not applicable

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

No

**15. The full text of the rules follows:**

TITLE 17. TRANSPORTATION

CHAPTER 8. DEPARTMENT OF TRANSPORTATION  
FUEL TAXES

**ARTICLE 5. ELECTRONIC FUEL TAX REPORTING**

Section

<u>R17-8-501.</u>	<u>Definitions</u>
<u>R17-8-502.</u>	<u>Applicability; General Provisions</u>
<u>R17-8-503.</u>	<u>Method and Medium of Transmission</u>
<u>R17-8-504.</u>	<u>Data Elements and Format</u>
<u>R17-8-505.</u>	<u>Record Retention; Audit</u>
<u>R17-8-506.</u>	<u>Remedies and Waiver</u>

**ARTICLE 5. ELECTRONIC FUEL TAX REPORTING**

**R17-8-501. Definitions**

In addition to the definitions provided under A.R.S. §§ 28-101 and 28-5601, the following terms apply to this Article:

“Applicant” means a person applying for licensure under A.R.S. Title 28, Chapter 16, Article 1.

“Electronic Fuel Tax Program” means the Department program for the electronic filing of fuel tax reports and payment of fuel taxes.

“Electronic Fuel Tax Reporting Agreement” means the contract between the Department and each licensee pertaining to filing electronic fuel tax reporting requirements in the form and containing such terms and conditions as established by the Director from time to time.

“Electronic funds transfer” has the same meaning as provided under R17-8-401.

“Electronic Fuel Tax Report” means the monthly fuel tax report required under A.R.S. Title 28, Chapter 16, Article 1, filed pursuant to the Electronic Fuel Tax Program.

“Fuel Tax Suite” means the secure web site provided by the Department for filing fuel tax reports and accessing a licensee’s fuel tax account.

“Licensee” means a person licensed under A.R.S. Title 28, Chapter 16, Article 1.

“Secure Access Gateway” means the Department’s secure network application that allows a remote user to connect to the Fuel Tax Suite.

“ServiceArizona Access Request and Agreement” means the contract documenting terms and conditions for access to the Secure Access Gateway and Fuel Tax Suite established by the Director from time to time.

**R17-8-502. Applicability; General Provisions**

- A.** For the purpose of administering the reporting requirements under A.R.S. Title 28, Chapter 16, Articles 1 and 5, a licensee shall participate in the Electronic Fuel Tax Reporting Program as provided under this Article.
- B.** Each applicant and licensee shall apply for Department authorization to submit electronic fuel tax reports as required by the Department.
- C.** Each applicant and licensee shall enter into an Electronic Fuel Tax Reporting Agreement as a condition of licensure.
- D.** A licensee shall submit monthly fuel tax reports required under A.R.S. Title 28, Chapter 16, Article 1, using paper forms provided by the Department until authorized by the Department to file electronic fuel tax reports.
- E.** A licensee authorized by the Department to file electronic fuel tax reports shall complete monthly fuel tax reports only by means of the Electronic Fuel Tax Program and shall not submit such reports in paper form.
- F.** A licensee authorized by the Department to file electronic fuel tax reports shall submit fuel tax payments by electronic funds transfer as provided under Article 4. The licensee shall ensure that the fuel tax payments are deposited to the Department account as prescribed under A.R.S. Title 28, Chapter 16, Articles 1 and 5.

**R17-8-503. Method and Medium of Transmission**

- A.** A licensee shall submit electronic fuel tax reports to the Department through the Fuel Tax Suite.
- B.** The filing deadline is 5:00 p.m. (Arizona Mountain Standard Time) on the 27th day of each calendar month, or, if such day is a Saturday, Sunday, or Arizona legal holiday, the next following business day.

**R17-8-504. Data Elements and Format**

Electronic Fuel Tax Reports shall include the following:

1. Identification of the licensee;
2. Detailed load-by-load receipts information that establishes the amount of fuel received;
3. Detailed load-by-load disbursement information that establishes the amount of fuel delivered;
4. Diesel differential information that establishes the basis for the differential adjustment; and
5. Other information required by the Director.

**R17-8-505. Record Retention; Audit**

- A.** A licensee shall retain the following records as provided under this Section:
  1. A copy of each electronic fuel tax report;
  2. A record of all transactions subject to the Electronic Fuel Tax Program;
  3. A record of all other electronic transmissions under the Electronic Fuel Tax Program;
  4. Back-up files adequate to recreate all electronic records; and
  5. All other records required under A.R.S. § 28-5619.
- B.** A licensee shall make available to the Department for inspection all hard copy records, electronic records, books, receipts, disbursements, and accounts used in support of an electronic report as prescribed under A.R.S. Title 28, Chapter 16. At the time of inspection, the licensee shall provide the Department with access to the electronic reporting method and medium in effect at the time of all electronic transmissions sufficient for the Department to effectively follow the audit trail.





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Telephone: (602) 771-4210 (This number may be reached in-state by dialing 1-800-234-5677 and requesting the seven digit number.)

Fax: (602) 771-2366

**6. An explanation of the rule, including the agency's reasons for initiating the rule:**

Summary.

The Arizona Department of Environmental Quality is repealing Appendix 10, Evaluation of Air Quality Data, and Appendix 11, Allowable Particulate Emissions Computations, in their entirety. The Agency has determined that the information contained in the Appendix 10 is out of date and does not comply with current monitoring protocols as designated by the Environmental Protection Agency in the Code of Federal Regulations at 40 CFR 50. The Agency has also determined that Appendix 11 is not useful because the actual values must be calculated using the equation included in the rules, not the graph. As part of this rulemaking, other rules from the Arizona Administrative Code must be amended in order to reflect these changes. In particular, references to Appendix 2 are being added to clarify where each CFR subpart has been incorporated by reference. The Air Assessment Section, Air Quality Division, ADEQ prepared "Guideline for the Development of Ambient Air Quality Monitoring Protocols for Air Quality Permits," in December 2006.

Background.

Appendix 10 was adopted effective May 14, 1979. It was amended effective July 9, 1980. It was further amended effective June 19, 1981. Appendix 11 was adopted effective May 14, 1979. It was amended effective September 11, 1983.

Section by Section Explanation of the Proposed Rules.

R18-2-216. Interpretation of ambient air quality standards and evaluation of air quality data. The proposed rule removes a reference to Appendix 10 and adds a reference to Appendix 2.

R18-2-703. Standards of Performance for Existing Fossil-fuel Fired Steam Generators and General Fuel-burning Equipment. The proposed rule removes the reference to Appendix 11. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-2-708. Standards of Performance for Existing Asphalt Concrete Plants. The proposed rule removes the reference to Appendix 11 and adds a reference to Appendix 2. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-2-711. Standards of Performance for Existing Secondary Lead Smelters. The proposed rule removes the reference to Appendix 11 and adds a reference to Appendix 2. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-2-712. Standards of Performance for Existing Secondary Brass and Bronze Ingot Production Plants. The proposed rule removes the reference to Appendix 11 and adds a reference to Appendix 2. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-2-713. Standards of Performance for Existing Iron and Steel Plants. The proposed rule removes the reference to Appendix 11 and adds a reference to Appendix 2. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-2-715. Standards of Performance for Existing Primary Copper Smelters; Site-specific Requirements. The proposed rule removes the reference to Appendix 11 and adds a reference to Appendix 2. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-2-716. Standards of Performance for Existing Coal Preparation Plants. The proposed rule removes the reference to Appendix 11 and adds a reference to Appendix 2. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-2-717. Standards of Performance for Steel Plants: Existing Electric Arc Furnaces (EAF). The proposed rule removes the reference to Appendix 11 and adds a reference to Appendix 2. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-2-719. Standards of Performance for Existing Stationary Rotating Machinery. The proposed rule removes the reference to Appendix 11 and adds a reference to Appendix 2. Minor technical and grammatical changes have been

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made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-2-720. Standards of Performance for Existing Lime Manufacturing Plants. The proposed rule removes the reference to Appendix 11 and adds a reference to Appendix 2. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-2-721. Standards of Performance for Existing Nonferrous Metals Industry Sources. The proposed rule removes the reference to Appendix 11 and adds a reference to Appendix 2. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-2-722. Standards of Performance for Existing Gravel or Crushed Stone Processing Plants. The proposed rule removes the reference to Appendix 11 and adds a reference to Appendix 2. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-2-724. Standards of Performance for Fossil-fuel Fired Industrial and Commercial Equipment. The proposed rule removes the reference to Appendix 11 and adds a reference to Appendix 2. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

R18-3-730. Standards of Performance for Unclassified Sources. The proposed rule removes the reference to Appendix 11. Minor technical and grammatical changes have been made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

Appendix 10. Evaluation of Air Quality Data. This Appendix is being repealed because it is out of date and does not comply with current monitoring protocols as designated by the Environmental Protection Agency in 40 CFR 50.

Appendix 11. Allowable Particulate Emissions Computations. This Appendix is being repealed because the graphs are not helpful in calculating the actual, which can be calculated using the equation included in the some of the rules listed above.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**8. 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:**

The rule does not diminish a previous grant of authority of a political subdivision of this state.

**9. The summary of the economic, small business, and consumer impact:**

**A. Rule identification.**

Arizona Administrative Code, Title 18, Chapter 2, Appendix 10, "Evaluation of Air Quality Data," and Appendix 11, "Allowable Particulate Emissions Computations."

This rulemaking repeals appendices 10 and 11. References to these two appendices are proposed to be deleted from Title 18, Chapter 2, Article 2, "Ambient Air Quality Standards; Area Designations; Classification" (R18-2-216) and Title 18, Chapter 2, Article 7, "Existing Stationary Source Performance Standards" (various rule Sections). Refer to "Sections Affected" in Preamble.

**B. Summary.**

ADEQ has determined that this rulemaking is exempt from preparing an Economic, Small Business, and Consumer Impact Statement under A.R.S. § 41-1055 (D)(3).

Appendix 10 contains outdated monitoring protocols and Appendix 11 is not useful since actual values must be calculated using the equation included in the rules. The Air Assessment Section, Air Quality Division, ADEQ has prepared "Guideline for the Development of Ambient Air Quality Monitoring Protocols for Air Quality Permits," December 2006.

ADEQ does not expect the repeal of these appendices to result in a direct economic impact to any entity (other state agencies, political subdivisions, or businesses). Public and private employment, as well as revenues or payroll will not be impacted. State revenues will also not be affected.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Minor technical and grammatical changes were made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

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**11. A summary of the comments made regarding the rules and the agency response to them:**

No comments were submitted during the comment period.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any other specific rule or class of rules:**

None

**13. Incorporation by reference and their location in the rule:**

There are no incorporations by reference in the Final Rulemaking.

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

No

**15. The full text of the rule follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AIR POLLUTION CONTROL**

**ARTICLE 2. AMBIENT AIR QUALITY STANDARDS; AREA DESIGNATIONS; CLASSIFICATIONS**

Section

R18-2-216. Interpretation of ~~ambient air quality standards and evaluation of air quality data~~ Ambient Air Quality Standards and Evaluation of Air Quality Data

**ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS**

Section

- R18-2-703. Standards of Performance for Existing Fossil-fuel Fired Steam Generators and General Fuel-burning Equipment
- R18-2-708. Standards of Performance for Existing Asphalt Concrete Plants
- R18-2-711. Standards of Performance for Existing Secondary Lead Smelters
- R18-2-712. Standards of Performance for Existing Secondary Brass and Bronze Ingot Production Plants
- R18-2-713. Standards of Performance for Existing Iron and Steel Plants
- R18-2-715. Standards of Performance for Existing Primary Copper Smelters; Site-specific Requirements
- R18-2-716. Standards of Performance for Existing Coal Preparation Plants
- R18-2-717. Standards of Performance for Steel Plants: Existing Electric Arc Furnaces (EAF)
- R18-2-719. Standards of Performance for Existing Stationary Rotating Machinery
- R18-2-720. Standards of Performance for Existing Lime Manufacturing Plants
- R18-2-721. Standards of Performance for Existing Nonferrous Metals Industry Sources
- R18-2-722. Standards of Performance for Existing Gravel or Crushed Stone Processing Plants
- R18-2-724. Standards of Performance for Fossil-fuel Fired Industrial and Commercial Equipment
- R18-3-730. Standards of Performance for Unclassified Sources

**APPENDIX 10. ~~A10. EVALUATION OF AIR QUALITY DATA~~ REPEALED**

**APPENDIX 11. ~~A11. ALLOWABLE PARTICULATE EMISSIONS COMPUTATIONS~~ REPEALED**

**ARTICLE 2. AMBIENT AIR QUALITY STANDARDS; AREA DESIGNATIONS; CLASSIFICATIONS**

R18-2-216. Interpretation of ~~ambient air quality standards and evaluation of air quality data~~ Ambient Air Quality Standards and Evaluation of Air Quality Data

- ~~A.~~ Unless otherwise specified, interpretation of all ambient air quality standards contained in this Article shall be in accordance with 40 CFR 50, incorporated by reference in Appendix 2 of this Chapter.
- ~~B.~~ The evaluation of air quality data in terms of procedure, methodology, and concept is to be consistent with methods described in Appendix 10 to this Chapter.

**ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS**

R18-2-703. **Standards of Performance for Existing Fossil-fuel Fired Steam Generators and General Fuel-burning Equipment**

- A. This Section applies to the following:
1. Installations in which fuel is burned for the primary purpose of producing power, steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with

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process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitation shall apply, except for wood waste burners as regulated under R18-2-704.

2. All fossil-fuel fired steam generating units or general fuel burning equipment which are greater than or equal to 73 megawatts capacity.
- B.** For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with R18-2-311. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit.
- C.** No person shall cause, allow or permit the emission of particulate matter in excess of the amounts calculated by one of the following equations:
1. For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:  

$$E = 1.02Q^{0.769}$$
 where:  
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.  
 Q = the heat input in million Btu per hour.
  2. For equipment having a heat input rate greater than 4200 million ~~Btu/hr~~ Btu per hour, the maximum allowable emissions shall be determined by the following equation:  

$$E = 17.0Q^{0.432}$$
 where "E" and "Q" have the same meaning as in subsection (C)(1).
- D.** ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~
- E.** When low sulfur oil is fired:
1. Existing fuel-burning equipment or steam-power generating installations which commenced construction or a major modification prior to May 30, 1972, shall not emit more than 1.0 pounds sulfur dioxide maximum three-hour average, per million Btu (430 nanograms per joule) heat input.
  2. Existing fuel-burning equipment or steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit more than 0.80 pounds of sulfur dioxide maximum three-hour average per million Btu (340 nanograms per joule) heat input.
- F.** When high sulfur oil is fired, all existing steam-power generating and general fuel-burning installations which are subject to the provisions of this Section shall not emit more than 2.2 pounds of sulfur dioxide maximum three-hour average per million Btu (946 nanograms per joule) heat input.
- G.** When solid fuel is fired:
1. Existing general fuel-burning equipment and steam-power generating installations which commenced construction or a major modification prior to May 30, 1972, shall not emit more than 1.0 pounds of sulfur dioxide maximum three-hour average, per million Btu (430 nanograms per joule) heat input.
  2. Existing general fuel-burning equipment and steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit more than 0.80 pounds of sulfur dioxide, maximum three-hour average, per million Btu (340 nanograms per joule) heat input.
- H.** Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee, unless the applicant demonstrates to the satisfaction of the Director that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.
1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
  2. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
  3. When the conditions justifying the use of high sulfur oil no longer exists, the permit shall be modified accordingly.
  4. Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.
- I.** Existing steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit nitrogen oxides in excess of the following amounts:
1. 0.20 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when gaseous fossil fuel is fired.
  2. 0.30 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when liquid fossil fuel is fired.
  3. 0.70 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when solid fossil fuel is fired.

- J. Emission and fuel monitoring systems, where deemed necessary by the Director for sources subject to the provisions of this Section shall, conform to the requirements of R18-2-313.
- K. The applicable reference methods given in the Appendices to 40 CFR 60 shall be used to determine compliance with the standards as prescribed in subsections (C) through (G) and (I). All tests shall be run at the heat input calculated under subsection (B).

**R18-2-708. Standards of Performance for Existing Asphalt Concrete Plants**

- A. Fixed asphalt concrete plants and portable asphalt concrete plants shall meet the standards set forth in this Section.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any existing asphalt concrete plant in total quantities in excess of the amounts calculated by one of the following equations:
  - 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:  
$$E = 4.10P^{0.67}$$
where:  
E = the maximum allowable particulate emission rate in pounds-mass per hour.  
P = the process weight rate in tons-mass per hour.
  - 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:  
$$E = 55.0P^{0.11-40}$$
where "E" and "P" are defined as indicated in subsection (B)(1).
- C. ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~
- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- E. Liquid fuel containing greater than 0.9% sulfur by weight shall not be utilized for asphalt concrete plants subject to this Section.
- F. Solid fuel containing greater than 0.5% sulfur by weight shall not be utilized for asphalt concrete plants subject to this Section.
- G. The test methods and procedures required under this Section are:
  - 1. The referenced methods given in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in subsection (B).
    - a. Method 5 for the concentration of particulate matter and the associated moisture content;
    - b. Method 1 for sample and velocity traverses;
    - c. Method 2 for velocity and volumetric flow rate;
    - d. Method 3 for gas analysis.
  - 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min) except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director.
  - 3. Percent sulfur in liquid fuel shall be determined by ASTM method D-129-91 (Test Method for Sulfur in Petroleum Products) (General Bomb Method), and the percent sulfur in solid fuel shall be determined by ASTM method D-3177-89 (Test Method for Total Sulfur in the Analysis Sample of Coal and Coke).

**R18-2-711. Standards of Performance for Existing Secondary Lead Smelters**

- A. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any existing secondary lead smelter in total quantities in excess of the amounts calculated by one of the following equations:
  - 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:  
$$E = 4.10P^{0.67}$$
where:  
E = the maximum, allowable emission rate in pounds-mass per hour.  
P = the process weight rate in tons-mass per hour.
  - 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:  
$$E = 55.0P^{0.11-40}$$
where "E" and "P" are defined as indicated in subsection (A)(1).
- B. ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~
- C. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used

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in determining the maximum allowable emission of particulate matter.

- D. The opacity of emissions subject to the provisions of this Section shall not exceed 20%.
- E. The test methods and procedures required by this Section are as follows:
  1. The reference methods set forth in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in subsection (A) as follows:
    - a. Method 5 for the concentration of particulate matter and the associated moisture content;
    - b. Method 1 for sample and velocity traverses;
    - c. Method 2 for velocity and volumetric flow rate;
    - d. Method 3 for gas analysis.
  2. For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director. Particulate sampling shall be conducted during representative periods of furnace operation including charging and tapping.

**R18-2-712. Standards of Performance for Existing Secondary Brass and Bronze Ingot Production Plants**

- A. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any secondary brass or bronze ingot production plant in total quantities in excess of the amount calculated by one of the following equations:
  1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:  

$$E = 4.10P^{0.67}$$
 where:  
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.  
 P = the process weight rate in tons-mass per hour.
  2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:  

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (A)(1).
- B. ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~
- C. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- D. The opacity of emissions subject to the provisions of this Section shall not exceed 20%.
- E. The test methods and procedures required by this Section are as follows:
  1. The reference methods set forth in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in subsection (A) as follows:
    - a. Method 5 for the concentration of particulate matter and the associated moisture content;
    - b. Method 1 for sample and velocity traverses;
    - c. Method 2 for velocity and volumetric flow rate;
    - d. Method 3 for gas analysis.
  2. For Method 5, the sampling time for each run shall be at least 120 minutes and the sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director. Particulate matter sampling shall be conducted during representative periods of charging and refining but not during pouring of the heat.

**R18-2-713. Standards of Performance for Existing Iron and Steel Plants**

- A. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any basic oxygen process furnace in total quantities in excess of the amount calculated by one of the following equations:
  1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:  

$$E = 4.10P^{0.67}$$
 where:  
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.  
 P = the process weight rate in tons-mass per hour.
  2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:  

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (A)(1).
- B. ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission val-~~

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~~ues obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~

- C. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- D. The opacity of emissions subject to the provisions of this Section shall not exceed 20%.
- E. Monitoring of operations under this Section is as follows:
  - 1. The owner or operator of an affected facility shall maintain daily records of the time and duration of each steel production cycle.
  - 2. The owner or operator of any affected facility that uses Venturi scrubber emission control equipment shall install, calibrate, maintain and continuously operate the following monitoring devices:
    - a. A monitoring device for the continuous measurement of the pressure loss through the Venturi constriction of the control equipment. The monitoring device shall be certified by the manufacturer to be accurate within  $\pm 250$  pascals ( $\pm 1$  inch water).
    - b. A monitoring device for the continuous measurement of the water supply pressure to the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within  $\pm 5\%$  of the design water supply pressure. The pressure sensor or tap shall be located close to the water discharge point.
  - 3. All monitoring devices required in subsection (F)(2) shall be recalibrated annually and at other times as the Director may require, in accordance with the procedures in Appendix 9 of this Chapter.
- F. The test methods and procedures required under this Section are as follows:
  - 1. The reference methods set forth in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in subsection (A) as follows:
    - a. Method 5 for concentration of particulate matter and associated moisture content;
    - b. Method 1 for sample and velocity traverses;
    - c. Method 2 for volumetric flow rate;
    - d. Method 3 for gas analysis.
  - 2. For Method 5, the sampling for each run shall continue for an integral number of cycles with total duration of at least 60 minutes. The sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director. A cycle shall start at the beginning of either the scrap preheat or the oxygen blow and shall terminate immediately prior to tapping.

**R18-2-715. Standards of Performance for Existing Primary Copper Smelters; Site-specific Requirements**

- A. No owner or operator of a primary copper smelter shall cause, allow or permit the discharge of particulate matter into the atmosphere from any process in total quantities in excess of the amount calculated by one of the following equations:
  - 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:  

$$E = 4.10P^{0.67}$$
 where  
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.  
 P = the process weight rate in tons-mass per hour.
  - 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:  

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (A)(1).
- ~~B. For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~
- C. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter for that process.
- D. The opacity of emissions subject to the provisions of this Section shall not exceed 20%.
- E. The reference methods set forth in the Arizona Testing Manual and 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in this Section as follows:
  - 1. Method A1 or Reference Method 5 for concentration of particulate matter and associated moisture content;
  - 2. Reference Method 1 for sample and velocity traverses;
  - 3. Reference Method 2 for volumetric flow rate;
  - 4. Reference Method 3 for gas analysis.
- F. Except as provided in a consent decree or a delayed compliance order, the owner or operator of any primary copper smelter shall not discharge or cause the discharge of sulfur dioxide into the atmosphere from any stack required to be monitored by R18-2-715.01(K) in excess of the following:
  - 1. For the copper smelter located near Hayden, Arizona at latitude 33°0'29"N and longitude 110°47'17" W:

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- a. Annual average emissions, as calculated under R18-2-715.01(C), shall not exceed 6,882 pounds per hour.
- b. The number of three-hour average emissions, as calculated under R18-2-715.01(C), shall not exceed n cumulative occurrences in excess of E, the emission level, shown in the following table in any compliance period as defined in R18-2-715.01(J):

n,	E,
Cumulative Occurrences	(lb/hr)
0	24,641
1	22,971
2	21,705
4	20,322
7	19,387
12	18,739
20	17,656
32	16,988
48	16,358
68	15,808
94	15,090
130	14,423
180	13,777
245	13,212
330	12,664
435	12,129
560	11,621
710	11,165
890	10,660
1100	10,205
1340	9,748
1610	9,319
1910	8,953
2240	8,556

- 2. For the copper smelter located near Miami, Arizona at latitude 33°24'50"N and longitude 110°51'25"W:
  - a. Annual average emissions, as calculated under R18-2-715.01(C), shall not exceed 604 pounds per hour.
  - b. The number of three-hour average emissions, as calculated under R18-2-715.01(C), shall not exceed n cumulative occurrences in excess of E, the emission level, shown in the following table in any compliance period as defined in R18-2-715.01(J):

n,	E,
Cumulative Occurrences	(lb/hr)
0	8678
1	7158
2	5903
4	4575
7	4074
12	3479
20	3017
32	2573
48	2111



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68	1703
94	1461
130	1274
180	1145
245	1064
330	1015
435	968
560	933
710	896
890	862
1100	828
1340	797
1610	765
1910	739
2240	712

- G.** Except as provided in a consent decree or a delayed compliance order, for the copper smelter located near Hayden, Arizona at latitude 33°0'29"N and longitude 110°47'17"W, annual average fugitive emissions calculated under R18-2-715.01(T) shall not exceed 295 pounds per hour.
- H.** In addition to the limits in subsection (F)(3), except as provided in a consent decree or a delayed compliance order, the owner or operator of the copper smelter located near Miami, Arizona at latitude 33°24'50"N and longitude 110°51'25"W shall not discharge or cause the discharge of sulfur dioxide into the atmosphere from combined stack and fugitive emissions units in excess of the 2420 pounds per hour annual average calculated under R18-2-715.01(U).

**R18-2-716. Standards of Performance for Existing Coal Preparation Plants**

- A.** The provisions of this Section are applicable to any of the following affected facilities in coal preparation plants: thermal dryers, pneumatic coal-cleaning equipment, coal processing and conveying equipment including breakers and crushers, coal storage systems, and coal transfer and loading systems. For purposes of this Section, the definitions contained in 40 CFR 60.251 are adopted by reference and incorporated herein.
- B.** No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any existing coal preparation plant in total quantities in excess of the amounts calculated by one of the following equations:
  - 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:  

$$E = 4.10P^{0.67}$$
 where:  
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.  
 P = the process weight rate in tons-mass per hour.
  - 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:  

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (B)(1).
- C.** ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~
- D.** For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- E.** Fugitive emissions from coal preparation plants shall be controlled in accordance with R18-2-604 through R18-2-607.
- F.** The test methods and procedures required by this Section are as follows:
  - 1. The reference methods in the 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, are used to determine compliance with standards prescribed in subsection (B) as follows:
    - a. Method 5 for the concentration of particulate matter and associated moisture content;
    - b. Method 1 for sample and velocity traverses;
    - c. Method 2 for velocity and volumetric flow rate;
    - d. Method 3 for gas analysis.
  - 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume is 0.85 dscm (30 dscf) except that short sampling times or smaller volumes, when necessitated by process variables or other

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factors, may be approved by the Director. Sampling shall not be started until 30 minutes after start-up and shall be terminated before shutdown procedures commence. The owner or operator of the affected facility shall eliminate cyclonic flow during performance tests in a manner acceptable to the Director.

3. The owner or operator shall construct the facility so that particulate emissions from thermal dryers or pneumatic coal cleaning equipment can be accurately determined by applicable test methods and procedures under subsection (F)(1).

**R18-2-717. Standards of Performance for Steel Plants: Existing Electric Arc Furnaces (EAF)**

- A. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from electric arc furnaces or dust-handling equipment which are affected facilities in any steel plant in total quantities in excess of the amount calculated by one of the following equations:
  1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:  

$$E = 4.10P^{0.67}$$
 where:  
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.  
 P = the process weight rate in tons-mass per hour.
  2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:  

$$E = 55.0P^{0.11} - 40$$
 where "E" and "P" are defined as indicated in subsection (A)(1).
- B. ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~
- C. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- D. An opacity standard of 40% shall not be exceeded by existing steel plant electric arc furnaces and their appurtenances for more than an aggregate of three minutes in any 45-minute period.
- E. A continuous monitoring system for the measurement of the opacity of emissions discharged into the atmosphere from the control device shall be installed, calibrated, maintained, and operated by the owner or operator subject to the provisions of this Section.
- F. The test methods and procedures required under this Section are as follows:
  1. Reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed under subsection (A) as follows:
    - a. Method 5 for concentration of particulate matter and associated moisture content.
    - b. Method 1 for sample and velocity and volumetric flow rate;
    - c. Method 2 for velocity and volumetric flow rate;
    - d. Method 3 for gas analysis.
  2. For Method 5, the sampling time for each run shall be at least four hours. When a single EAF is sampled, the sampling time for each run shall also include an integral number of heats. Shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director. The minimum sample volume shall be 4.5 dscm (160 dscf).

**R18-2-719. Standards of Performance for Existing Stationary Rotating Machinery**

- A. The provisions of this Section are applicable to the following affected facilities: all stationary gas turbines, oil-fired turbines, or internal combustion engines. This Section also applies to an installation operated for the purpose of producing electric or mechanical power with a resulting discharge of sulfur dioxide in the installation's effluent gases.
- B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. Compliance tests shall be conducted during operation at the normal rated capacity of each unit. The total heat input of all operating fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.
- C. No person shall cause, allow or permit the emission of particulate matter, caused by combustion of fuel, from any stationary rotating machinery in excess of the amounts calculated by one of the following equations:
  1. For equipment having a heat input rate of 4200 million ~~Btu/hr~~ Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:  

$$E = 1.02Q^{0.769}$$
 where:  
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.  
 Q = the heat input in million Btu per hour.
  2. For equipment having a heat input rate greater than 4200 million ~~Btu/hr~~ Btu per hour, the maximum allowable emissions shall be determined by the following equation:

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$$E = 17.0Q^{0.432}$$

where "E" and "Q" have the same meaning as in subsection (C)(1).

- D. ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~
- E. No person shall cause, allow or permit to be emitted into the atmosphere from any stationary rotating machinery, smoke for any period greater than 10 consecutive seconds which exceeds 40% opacity. Visible emissions when starting cold equipment shall be exempt from this requirement for the first 10 minutes.
- F. When low sulfur oil is ~~fires~~ fired, stationary rotating machinery installations shall burn fuel which limits the emission of sulfur dioxide to 1.0 pound per million Btu heat input.
- G. When high sulfur oil is fired, stationary rotating machinery installations shall not emit more than 2.2 pounds of sulfur dioxide per million Btu heat input.
- H. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee. This condition may not be included in the permit if the applicant demonstrates to the satisfaction of the Director both that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.
  - 1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
  - 2. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
  - 3. When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.
  - 4. Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.
- I. The owner or operator of any stationary rotating machinery subject to the provisions of this Section shall record daily the sulfur content and lower heating value of the fuel being fired in the machine.
- J. The owner or operator of any stationary rotating machinery subject to the provisions of this Section shall report to the Director any daily period during which the sulfur content of the fuel being fired in the machine exceeds 0.8%.
- K. The test methods and procedures required by this Section are as follows:
  - 1. To determine compliance with the standards prescribed in subsections (C) through (H), the following reference methods shall be used:
    - a. Reference Method 20 in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, for the concentration of sulfur dioxide and oxygen.
    - b. ASTM Method D-129-91 (Test Method for Sulfur in Petroleum Products) (General Bomb Method) for the sulfur content of liquid fuels.
    - c. ASTM Method D-1072-90 (Test Method for Total Sulfur in Fuel Gases) for the sulfur content of gaseous fuels.
  - 2. To determine compliance with the standards prescribed in subsection (J), the following reference methods in the Arizona Testing Manual shall be used:
    - a. ASTM Method D-129-91 (Test Method for Sulfur in Petroleum Products) (General Bomb Method) for the sulfur content of liquid fuels.
    - b. ASTM Method D-1072-90 (Test Method for Total Sulfur in Fuel Gases) for the sulfur content of gaseous fuels.

**R18-2-720. Standards of Performance for Existing Lime Manufacturing Plants**

- A. The provisions of this Section are applicable to the following affected facilities used in the manufacture of lime: rotary lime kilns, vertical lime kilns, lime hydrators, and limestone crushing facilities. This Section is also applicable to limestone crushing equipment which exists apart from other lime manufacturing facilities.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any lime manufacturing or limestone crushing facility in total quantities in excess of the amounts calculated by one of the following equations:
  - 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:
 
$$E = 4.10P^{0.67}$$
 where:
    - E = the maximum allowable particulate emissions rate in pounds-mass per hour.
    - P = the process weight rate in tons-mass per hour.
  - 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:
 
$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (B)(1).
- C. ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values~~

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shall be calculated from the applicable equations and rounded off to two decimal places.

- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- E. Fugitive emissions from lime plants shall be controlled in accordance with R18-2-604 through R18-2-607.
- F. The owner or operator subject to the provisions of this Section shall install, calibrate, maintain, and operate a continuous monitoring system, except as provided in subsection (G), to monitor and record the opacity of the gases discharged into the atmosphere from any rotary lime kiln. The span of this system shall be set at 70% opacity.
- G. The owner or operator of any rotary lime kiln using a wet scrubbing emission control device subject to the provisions of this Section shall not be required to monitor the opacity of the gases discharged as required in subsection (F).
- H. The test methods and procedures required by this Section are as follows:
  - 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with this Section as follows:
    - a. Method 5 for the measurement of particulate matter;
    - b. Method 1 for sample and velocity traverses;
    - c. Method 2 for velocity and volumetric flow rate;
    - d. Method 3 for gas analysis;
    - e. Method 4 for stack gas moisture;
    - f. Method 9 for visible emissions.
  - 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.85 dscm/hr (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director.
  - 3. Because of the high moisture content of the exhaust gases from the hydrators, in the range of 40 to 85% by volume, the Method 5 sample train may be modified to include a calibrated orifice immediately following the sample nozzle when testing lime hydrators. In this configuration, the sampling rate necessary for maintaining isokinetic conditions can be directly related to exhaust gas velocity without a correction for moisture content.

**R18-2-721. Standards of Performance for Existing Nonferrous Metals Industry Sources**

- A. The provisions of this Section are applicable to the following affected facilities: ~~mines, mills, concentrators, crushers, screens, material handling facilities, fine ore storage, dryers, roasters, and loaders.~~
  - 1. Mines.
  - 2. Mills.
  - 3. Concentrators.
  - 4. Crusers.
  - 5. Screens.
  - 6. Material handling Facilities
  - 7. Fine ore storage.
  - 8. Dryers.
  - 9. Roasters, and
  - 10. Loaders.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any process source subject to the provisions of this Section in total quantities in excess of the amounts calculated by one of the following equations:
  - 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:  
 $E = 4.10P^{0.67}$   
where:  
E = the maximum allowable particulate emissions rate in pounds-mass per hour.  
P = the process weight rate in tons-mass per hour.
  - 2. For process sources having a process weight greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:  
 $E = 55.0P^{0.11-40}$   
where "E" and "P" are defined as indicated in subsection (B)(1).
- C. ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~
- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- E. No person shall cause, allow or permit to be discharged into the atmosphere from any dryer or roaster the operating temperature of which exceeds 700° F, reduced sulfur in excess of 10% of the sulfur entering the process as feed. Reduced sulfur includes sulfur equivalent from all sulfur emissions including sulfur dioxide, sulfur trioxide, and sulfuric acid.

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- F. The owner or operator of any mining property subject to the provisions of this Section shall record the daily process rates and hours of operation of all material handling facilities.
- G. A continuous monitoring system for measuring sulfur dioxide emissions shall be installed, calibrated, maintained and operated by the owner or operator where dryers or roasters are not expected to achieve compliance with the standard under subsection (E).
- H. The test methods and procedures required by this Section are as follows:
  - 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standard prescribed in this Section as follows:
    - a. Method 5 for the concentration of particulate matter and the associated moisture content;
    - b. Method 1 for sample and velocity traverses;
    - c. Method 2 for velocity and volumetric flow rate;
    - d. Method 3 for gas analysis and calculation of excess air, using the integrated sample technique;
    - e. Method 6 for concentration of SO<sub>2</sub>.
  - 2. For Method 5, Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least 60 minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf), except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the Director. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than 160°C. (320°F.).
  - 3. For Method 6, the sampling site shall be the same as that selected for Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than 1 m (3.28 ft.). For Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.
  - 4. For Method 6, the minimum sampling time shall be 20 minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two samples shall constitute one run. Samples shall be taken at approximately 30-minute intervals.

**R18-2-722. Standards of Performance for Existing Gravel or Crushed Stone Processing Plants**

- A. The provisions of this Section are applicable to the following affected facilities: primary rock crushers, secondary rock crushers, tertiary rock crushers, screens, conveyors and conveyor transfer points, stackers, reclaimers, and all gravel or crushed stone processing plants and rock storage piles.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere except as fugitive emissions in any one hour from any gravel or crushed stone processing plant in total quantities in excess of the amounts calculated by one of the following equations:
  - 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:
$$E = 4.10P^{0.67}$$
where:
    - E = the maximum allowable particulate emissions rate in pounds-mass per hour.
    - P = the process weight rate in tons-mass per hour.
  - 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:
$$E = 55.0P^{0.11-40}$$
where "E" and "P" are defined as indicated in subsection (B)(1).
- C. ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~
- D. Spray bar pollution controls shall be utilized in accordance with "EPA Control of Air Emissions From Process Operations In The Rock Crushing Industry" (EPA 340/1-79-002), "Wet Suppression System" (pages 15-34, amended as of January 1979 (and no future amendments or editions)), as incorporated herein by reference and on file with the Office of the Secretary of State, with placement of spray bars and nozzles as required by the Director to minimize air pollution.
- E. Fugitive emissions from gravel or crushed stone processing plants shall be controlled in accordance with R18-2-604 through R18-2-607.
- F. The owner or operator of any affected facility subject to the provisions of this Section shall install, calibrate, maintain, and operate monitoring devices which can be used to determine daily the process weight of gravel or crushed stone produced. The weighing devices shall have an accuracy of ± 5% over their operating range.
- G. The owner or operator of any affected facility shall maintain a record of daily production rates of gravel or crushed stone produced.
- H. The test methods and procedures required by this Section are as follows:
  - 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in this Section as follows:
    - a. Method 5 for concentration of particulate matter and moisture content;

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- b. Method 1 for sample and velocity traverses;
  - c. Method 2 for velocity and volumetric flow rate;
  - d. Method 3 for gas analysis.
2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume is 0.85 dscm (30 dscf), except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Director. Sampling shall not be started until 30 minutes after start-up and shall be terminated before shutdown procedures commence. The owner or operator of the affected facility shall eliminate cyclonic flow during performance tests in a manner acceptable to the Director.

**R18-2-724. Standards of Performance for Fossil-fuel Fired Industrial and Commercial Equipment**

- A.** This Section applies to industrial and commercial installations which are less than 73 megawatts capacity (250 million British thermal units per hour), but in the aggregate on any premises are rated at greater than 500,000 British thermal units per hour (0.146 megawatts), and in which fuel is burned for the primary purpose of producing steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.
- B.** For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with R18-2-311. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit. The total heat input of all fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.
- C.** No person shall cause, allow or permit the emission of particulate matter, caused by combustion of fuel, from any fuel-burning operation in excess of the amounts calculated by one of the following equations:
- 1. For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:  

$$E = 1.02Q^{0.769}$$
 where:  
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.  
 Q = the heat input in million Btu per hour.
  - 2. For equipment having a heat input rate greater than 4200 million Btu per hour, the maximum allowable emissions shall be determined by the following equation:  

$$E = 17.0Q^{0.432}$$
 where "E" and "Q" have the same meanings as in subsection (C)(1).
- D.** ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~
- E.** Fossil-fuel fired industrial and commercial equipment installations shall not emit more than 1.0 pounds of sulfur dioxide per million Btu heat input when low sulfur oil is fired.
- F.** Fossil-fuel fired industrial and commercial equipment installations shall not emit more than 2.2 pounds of sulfur dioxide per million Btu heat input when high sulfur oil is fired.
- G.** Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee. This condition may be omitted from the permit if the applicant demonstrates to the satisfaction of the Director both that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.
- 1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
  - 2. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
  - 3. When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.
  - 4. Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.
- H.** When coal is fired, fossil-fuel fired industrial and commercial equipment installations shall not emit more than 1.0 pounds of sulfur dioxide per million Btu heat input.
- I.** The owner or operator subject to the provisions of this Section shall install, calibrate, maintain and operate a continuous monitoring system for measurement of the opacity of emissions discharged into the atmosphere from the control device.
- J.** For the purpose of reports required under excess emissions reporting required by R18-2-310.01, the owner or operator shall report all six-minute periods in which the opacity of any plume or effluent exceeds 15%.
- K.** The test methods and procedures required by this Section are as follows:
- 1. The reference methods in 40 CFR 60, Appendix A, ~~as incorporated by reference in Appendix 2 of this Chapter~~, shall be used to determine compliance with the standards as prescribed in this Section.

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- a. Method 1 for selection of sampling site and sample traverses;
  - b. Method 3 for gas analysis to be used when applying Reference Methods 5 and 6;
  - c. Method 5 for concentration of particulate matter and the associated moisture content;
  - d. Method 6 for concentration of SO<sub>2</sub>.
2. For Method 5, Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least 60 minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf), except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the Director. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than 160°C. (320°F.).
  3. For Method 6, the sampling site shall be the same as that selected for Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than 1 m (3.28 ft). For Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.
  4. For Method 6, the minimum sampling time shall be 20 minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two samples shall constitute one run. Samples shall be taken at approximately 30-minute intervals.
  5. Gross calorific value shall be determined in accordance with the applicable ASTM methods: D-2015-91 (Test for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter) for solid fuels; D-240-87 (Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter) for liquid fuels; and D-1826-88 (Test Method for Calorific Value of Gases in Natural Gas Range by Continuous Recording Calorimeter) for gaseous fuels. The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the fossil-fuel fired system.

**R18-2-730. Standards of Performance for Unclassified Sources**

- A. No existing source which is not otherwise subject to standards of performance under this Article or Article 9 or 11 of this Chapter, shall cause or permit the emission of pollutants at rates greater than the following:
  1. For particulate matter discharged into the atmosphere in any one hour from any unclassified process source in total quantities in excess of the amounts calculated by one of the following equations:
    - a. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:  

$$E = 4.10P^{0.67}$$
 where:  
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.  
 P = the process weight rate in tons-mass per hour.
    - b. For process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:  

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (A)(1)(a).
  2. Sulfur dioxide – 600 parts per million.
  3. Nitrogen oxides expressed as NO<sub>2</sub> – 500 parts per million.
- B. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- C. ~~For reference purposes only, the two equations in subsection (C) are plotted in Appendix 11, Figure 1. The emission values obtained from the graph are approximately correct for the heat input rates shown. However, the actual Actual values shall be calculated from the applicable equations and rounded off to two decimal places.~~
- D. No person shall emit gaseous or odorous materials from equipment, operations or premises under his control in such quantities or concentrations as to cause air pollution.
- E. No person shall operate or use any machine, equipment, or other contrivance for the treatment or processing of animal or vegetable matter, separately or in combination, unless all gaseous vapors and gas entrained effluents from such operations, equipment, or contrivance have been either:
  1. Incinerated to destruction, as indicated by a temperature measuring device, at not less than 1,200 degrees Fahrenheit if constructed or reconstructed prior to January 1, 1989, or 1,600 degrees Fahrenheit with a minimum residence time of 0.5 seconds if constructed or reconstructed thereafter; or
  2. Passed through such other device which is designed, installed and maintained to prevent the emission of odors or other air contaminants and which is approved by the Director.
- F. Materials including solvents or other volatile compounds, paints, acids, alkalis, pesticides, fertilizers and manure shall be processed, stored, used and transported in such a manner and by such means that they will not evaporate, leak, escape or be otherwise discharged into the ambient air so as to cause or contribute to air pollution. Where means are available to reduce effectively the contribution to air pollution from evaporation, leakage or discharge, the installation and use of such control methods, devices, or equipment shall be mandatory.
- G. Where a stack, vent or other outlet is at such a level that fumes, gas mist, odor, smoke, vapor or any combination thereof

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constituting air pollution is discharged to adjoining property, the Director may require the installation of abatement equipment or the alteration of such stack, vent, or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to adjoining property.

- H. No person shall allow hydrogen sulfide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 0.03 parts per million by volume for any averaging period of 30 minutes or more.
- I. No person shall cause, allow or permit discharge from any stationary source carbon monoxide emissions without the use of complete secondary combustion of waste gases generated by any process source.
- J. No person shall allow hydrogen cyanide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 0.3 parts per million by volume for any averaging period of eight hours.
- K. No person shall allow sodium cyanide dust or dust from any other solid cyanide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 140 micrograms per cubic meter for any averaging period of eight hours.
- L. No owner or operator of a facility engaged in the surface coating of miscellaneous metal parts and products may operate a coating application system subject to this Section that emits volatile organic compounds in excess of any of the following:
  1. 4.3 pounds per gallon (0.5 kilograms per liter) of coating, excluding water, delivered to a coating applicator that applies clear coatings.
  2. 3.5 pounds per gallon (0.42 kilograms per liter) of coating, excluding water delivered to a coating applicator in a coating application system that is air dried or forced warm air dried at temperatures up to 194°F (90°C).
  3. 3.5 pounds per gallon (0.42 kilograms per liter) of coating, excluding water, delivered to a coating applicator that applies extreme performance coatings.
  4. 3.0 pounds per gallon (0.36 kilograms per liter) of coating, excluding water, delivered to a coating applicator for all other coatings and application systems.
- M. If more than one emission limitation in subsection (L) applies to a specific coating, then the least stringent emission limitation shall be applied.
- N. All VOC emissions from solvent washings shall be considered in the emission limitations in subsection (L), unless the solvent is directed into containers that prevent evaporation into the atmosphere.

**APPENDIX 10. EVALUATION OF AIR QUALITY DATA REPEALED**

**A10. EVALUATION OF AIR QUALITY DATA**

- A10.1. General Statistical Requirements
- A10.1.1. The measurements of air quality shall be corrected to a reference temperature of 298°K (25°C) and to a reference pressure of 101.3 kilopascals (760 millimeters of mercury). For these reference conditions the following conversion factors shall be used:
  - Carbon monoxide:  $\text{ppm} \times 1.145 = \text{mg}/\text{m}^3$
  - Hydrocarbons:  $\text{ppm} \times 656 = \text{ug}/\text{m}^3$
  - Nitrogen dioxide:  $\text{ppm} \times 1882 = \text{ug}/\text{m}^3$
  - Sulfur dioxide:  $\text{ppm} \times 2620 = \text{ug}/\text{m}^3$

$\text{mg}/\text{m}^3$  and  $\text{ug}/\text{m}^3$  are abbreviations for milligrams per cubic meter and micrograms per cubic meter, respectively.
- A10.1.2. For purposes of reporting and determining compliance with ambient air quality standards, all ambient air quality data shall be expressed in micrograms per cubic meter, except for carbon monoxide which shall be expressed in milligrams per cubic meter, and for ozone which shall be expressed in parts per million.
- A10.1.3. Significant Figures
- A10.1.3.1. Continuous Monitoring Instrument Data
  - Ambient air quality data from continuous monitoring instruments shall be measured, and processed and recorded to the following degrees of precision:
    - For analog recorders, 1% of full scale
    - For digital recorders, 0.1% of full scale
- A10.1.3.2. Manual Sampling Data
  - Data from manual samplers shall be reported to the following degrees of precision:
    - Nitrogen dioxide, 1.0  $\text{ug}/\text{m}^3$
    - Sulfur dioxide, 1.0  $\text{ug}/\text{m}^3$
    - Particulate matter, 1.0  $\text{ug}/\text{m}^3$
    - Benzene soluble organics, 0.1  $\text{ug}/\text{m}^3$
    - Lead, 0.1  $\text{ug}/\text{m}^3$
    - Nitrates, 0.1  $\text{ug}/\text{m}^3$
    - Sulfates, 0.1  $\text{ug}/\text{m}^3$
- A10.1.3.3. Computational Procedures



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All computations shall be made to one more decimal place than shown in A10.1.3.2. above. If the least significant figure is 5 or greater, the computed value shall be rounded up to the required number of decimal places. If the least significant figure is 4 or less, the computed value shall be rounded down to the required number of decimal places.

- A10.1.4. Annual mean pollutant concentrations and compliance with the annual ambient air quality standards shall be based on calendar year means only.
- A10.2. Statistical Requirements for Manual Sampling Techniques-High Volume Samplers and Gas Bubblers.
- A10.2.1. For computing annual means there shall be at least 11 samples per quarter, based on a sampling frequency of at least one sample every six days. The sampling period shall be 24 hours, starting at midnight and ending the following midnight.
- A10.2.2. For determining compliance with 24-hour ambient air quality standards, the sampling period shall be 24 hours, starting at midnight and ending on the following midnight.
- A10.3. Statistical Requirements for Continuous Monitors
- A10.3.1. Hourly averages shall be computed for each discrete clock hour using the data measured for the preceding 60-minute period. All measurements of the analyzer shall be used for computing hourly averages which are the basis for all other averages.
- A10.3.2. Determining Compliance with Ambient Air Quality Standards  
Any three or 8, consecutive, hourly averages shall be used to determine compliance with the three or eight hour ambient air quality standards provided the minimum number of observations required in A10.3.4. are available. If a violation of a standard occurs, no hourly averages used to compute that violation shall be used to compute additional violations of the same standard. In other words, the time periods for violations of the same standard cannot overlap. For example, a maximum of two violations of the same three-hour standard could be recorded at the same monitor in any period of six consecutive hours. For determining compliance with 24-hour ambient air quality standards, 24 hourly averages for a calendar day shall be used provided the minimum number of observations required in A10.3.4. are available.
- A10.3.3. Determining Maximum Concentrations  
For determining maximum three- or eight hour concentrations for information, planning, and reporting requirements, any three or 8, consecutive, hourly averages may be used provided the minimum number of observations required in A10.3.4. are available. The time period for the maximum concentration may overlap time periods for violations.
- A10.3.4. Minimum requirements for statistical validity for averaging times shall be as follows:
 

Time Interval	Minimum Number of Observations
1 hour	45 minutes of measured concentrations
3 hours	consecutive valid hourly averages
8 hours	6 valid hourly averages
24 hours	18 valid hourly averages within a calendar day
Monthly	Valid hourly data for at least 75% of the hours in the month
Quarterly	3 consecutive valid monthly averages
Annual	6,570 hourly averages with at least two months, each having 75% data recovery, per quarter, and at least nine months, each having 75% data recovery per year. All valid hourly averages shall be used to compute the annual averages.

**APPENDIX 11. REPEALED**

**A11. ALLOWABLE PARTICULATE EMISSIONS COMPUTATIONS**

- A11.1. Figure 1, hereto, plots the formulae for determining allowable particulate emissions from fuel burning equipment, based on the heat input to the equipment.
- A11.2. Figure 2, hereto, plots the formulae for determining allowable particulate emissions from process industries, based on the process weight rate of the industry.

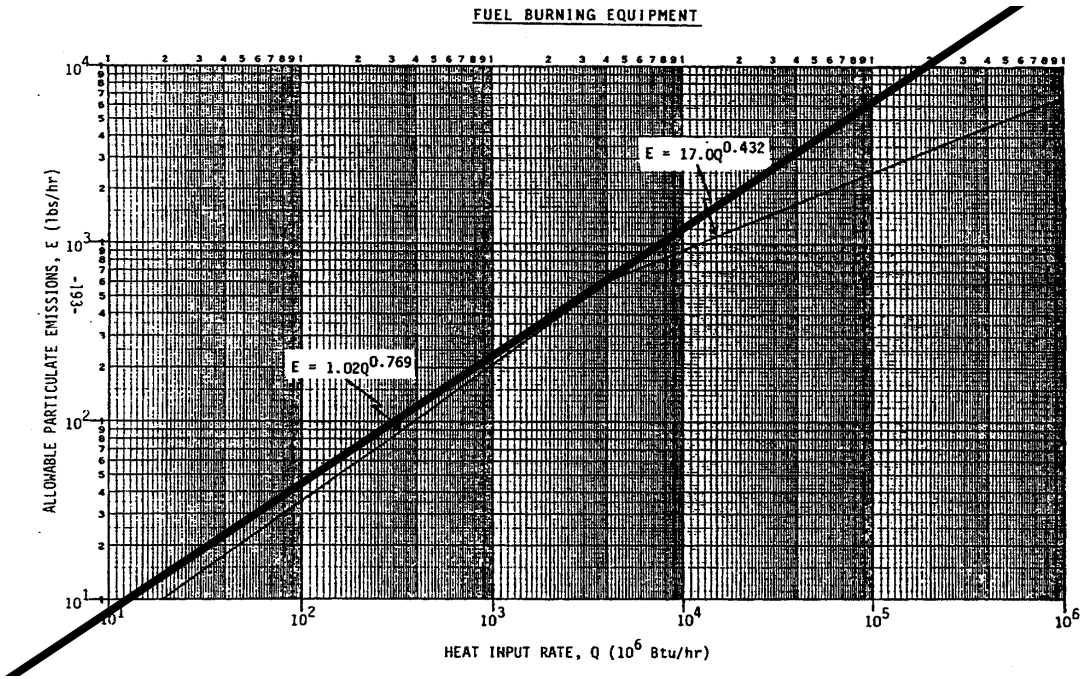


FIGURE 1

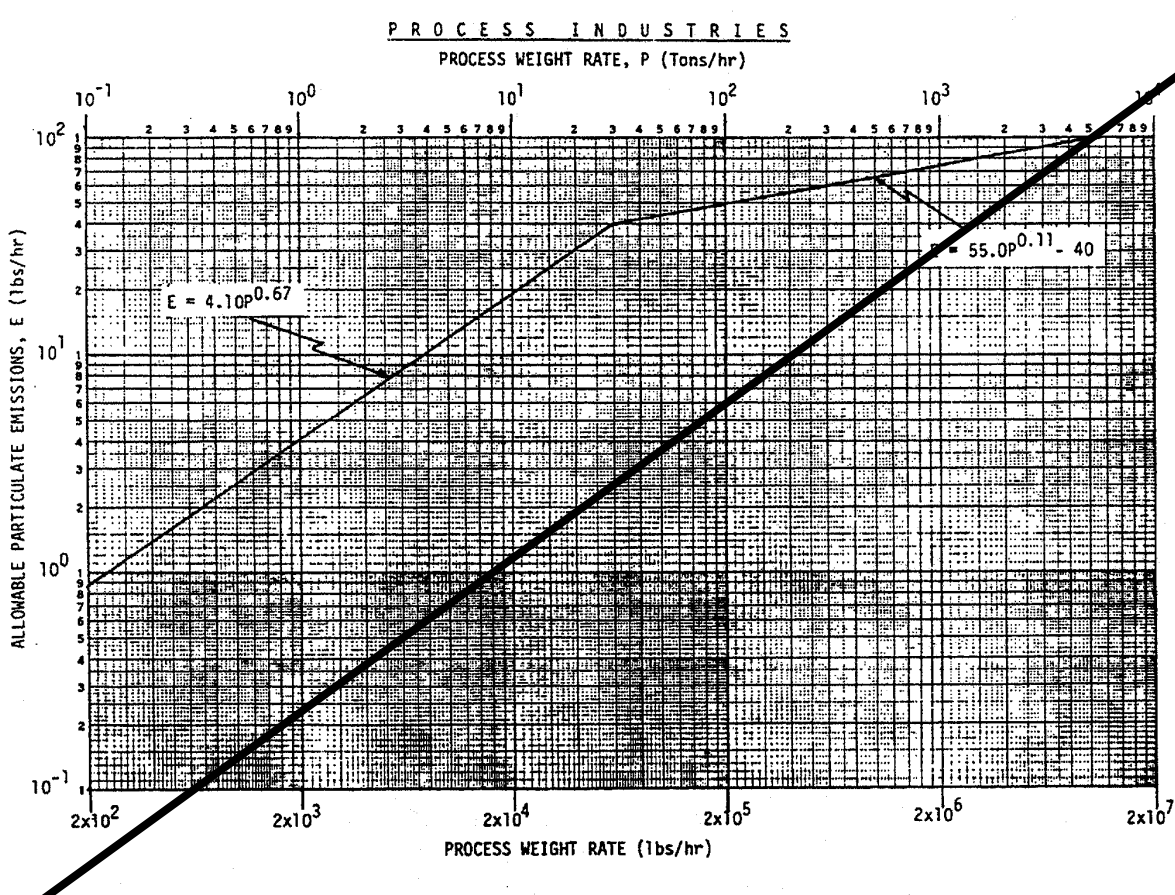


FIGURE 2