



# Arizona Administrative REGISTER

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**DIRECTOR**  
*Administrative Rules Division*  
Scott Cancelosi

**PUBLISHER**  
*Secretary of State*  
**MICHELE REAGAN**

**RULES MANAGING EDITOR**  
*Arizona Administrative Register*  
Rhonda Paschal

# From the Publisher

## ABOUT THIS PUBLICATION

The paper copy of the *Administrative Register* (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the *Arizona Administrative Register* or *Code*. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions.

## ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the *Register*. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

## WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?

The *Arizona Administrative Code* (A.A.C.) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The printed *Code* is the official publication of a rule in the A.A.C., and is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The *Code* is posted online for free.

## LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a page.

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**PUBLISHER**  
**SECRETARY OF STATE**  
Michele Reagan

**ADMINISTRATIVE RULES**  
**STAFF**  
**DIRECTOR**  
Scott Cancelosi

**RULES MANAGING EDITOR**  
Rhonda Paschal

**ADMINISTRATIVE REGISTER**  
This publication is available online for free at [www.azsos.gov](http://www.azsos.gov).

**ADMINISTRATIVE CODE**  
A price list for the *Arizona Administrative Code* is available online. You may also request a paper price list by mail. To purchase a paper Chapter, contact us at (602) 364-3223.

**PUBLICATION DEADLINES**  
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

**CONTACT US**  
Administrative Rules Division  
Office of the Secretary of State  
1700 W. Washington Street, Fl. 2  
Phoenix, AZ 85007  
(602) 364-3223

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# Participate in the Process

## Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

## Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

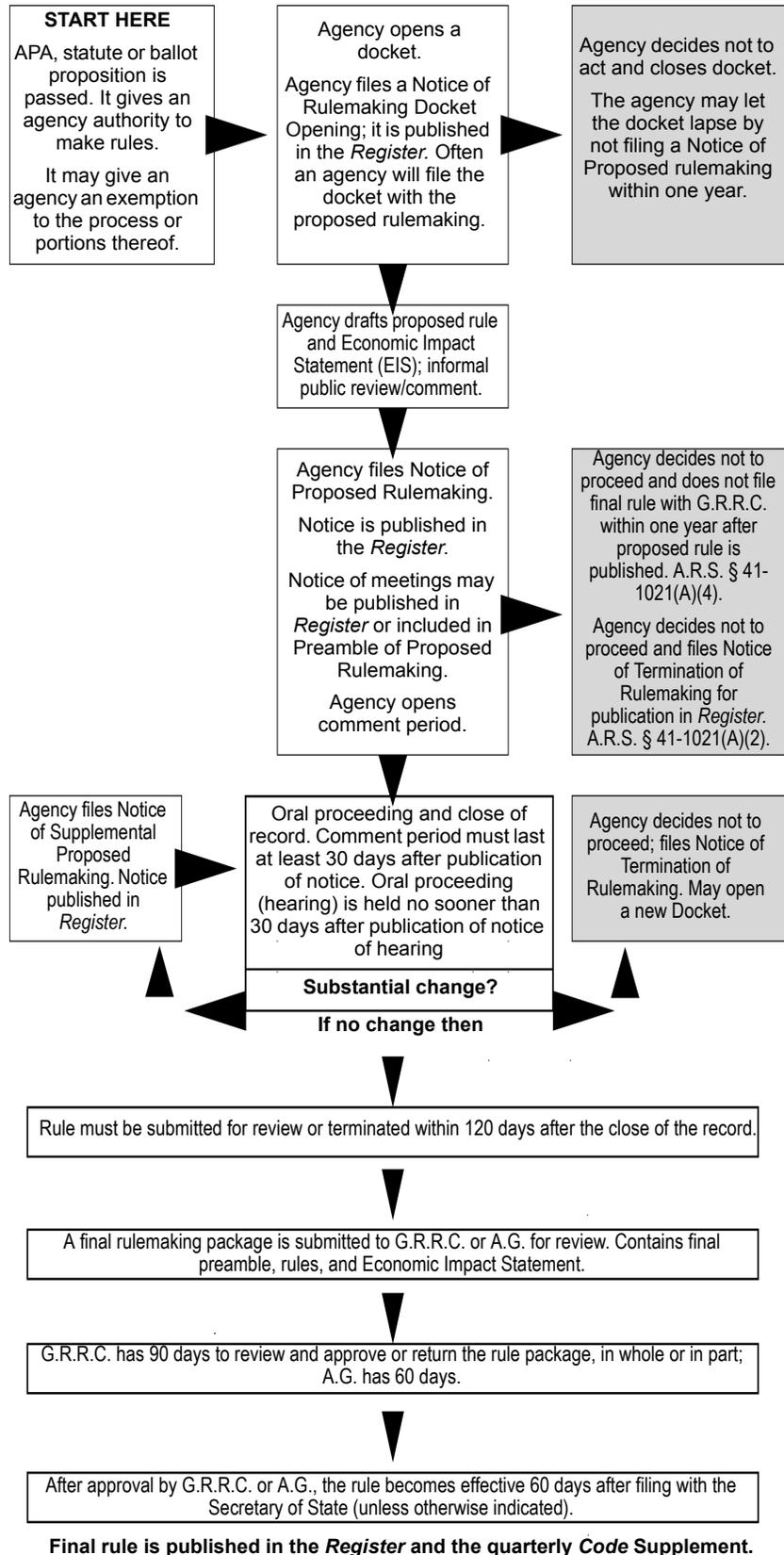
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

# Arizona Regular Rulemaking Process



## Definitions

**Arizona Administrative Code (A.A.C.):** Official rules codified and published by the Secretary of State's Office. Available online at [www.azsos.gov](http://www.azsos.gov).

**Arizona Administrative Register (A.A.R.):** The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at [www.azsos.gov](http://www.azsos.gov).

**Administrative Procedure Act (APA):** A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at [www.azleg.gov](http://www.azleg.gov).

**Arizona Revised Statutes (A.R.S.):** The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at [www.azleg.gov](http://www.azleg.gov).

**Chapter:** A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

**Close of Record:** The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

**Code of Federal Regulations (CFR):** The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

**Docket:** A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

**Economic, Small Business, and Consumer Impact Statement (EIS):** The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

**Governor's Regulatory Review (G.R.R.C.):** Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

**Incorporated by Reference:** An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

**Federal Register (FR):** The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

**Session Laws or "Laws":** When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.," and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at [www.azleg.gov](http://www.azleg.gov).

**United States Code (U.S.C.):** The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

## Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor's Regulatory Review Council*

U.S.C. – *United States Code*

## About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.





\$350 million, representing a 26% jump from the previous year. While 2016 data is still forthcoming, the Department estimates that the costs will continue to rise so long as opioid prescribing practices remain the same. The Department estimates that hundreds of opioid prescriptions are issued each day in Arizona by health care providers in licensed health care institutions, each having the potential to lead to an opioid overdose death.

In response to this epidemic, Governor Doug Ducey, on June 5, 2017, issued a Declaration of Emergency (Opioid Overdose Epidemic), in which the Department is directed to “initiate emergency rule making with the Arizona Attorney General’s Office in order to develop rules for opioid prescribing and treatment within health care institutions pursuant to A.R.S. § 36-405.”

The Department believes that many opioid overdoses are preventable; however the Department requires more robust and more accurate data to successfully combat the opioid overdose epidemic and reduce the number of opioid overdose deaths. The enhanced surveillance being undertaken by the Department as a result of the Governor’s Executive Order 17-04 will provide that data and help shape the public health response to the opioid overdose epidemic. To reduce the number of opioid overdose deaths in Arizona and the number of individuals suffering an opioid overdose as a result of opioids prescribed, ordered, or administered as part of treatment in licensed health care institutions, the rules in A.A.C. Title 9, Chapter 10, need to be revised to strengthen requirements for health care institutions that prescribe, order, or administer opioids. To accomplish this and in compliance with the Governor’s directive in the Opioid Overdose Epidemic Declaration of Emergency, the Department sought and obtained an exception from the rulemaking moratorium to conduct rulemaking related to opioid prescribing or use in treatment in licensed health care institutions.

In this emergency rulemaking, the Department, to protect the health and safety of a patient, is adopting rules to require licensed health care institutions to establish, document, and implement policies and procedures for prescribing, ordering, or administering opioids as part of treatment; to include specific processes related to opioids in a health care institution’s quality management program; and to notify the Department of the death of a patient from an opioid overdose. The Department is also specifying requirements with which an individual will need to comply before prescribing opioids, ordering opioids, or administering opioids in the treatment of a patient. To reduce the burden on licensed health care institutions, the Department is exempting the prescription, ordering, or administration of opioids as part of treatment for a patient with a terminal condition.

Concurrent with this emergency action, the Department is initiating a regular rulemaking to address the alarming rise in prescription opioid-related deaths. The anticipated regular rulemaking does not negate the need for an emergency rulemaking, however. If the current rate of opioid-related deaths continues, nearly 600 Arizona lives may be lost due to an opioid overdose in the time it takes to initiate and complete a regular rulemaking. It is, therefore, imperative that the Department act immediately through emergency rulemaking to devise and implement a public health response to the opioid crisis. By providing licensed health care institutions with comprehensive requirements related to the prescription and use of opioids in treatment as part of the emergency rulemaking, the Department anticipates an immediate effect on opioid prescribing practices, a decrease in the number of unnecessary opioid prescriptions, and an attendant reduction in overdose-related events thereafter. Accordingly, in light of the human and economic costs posed by opioid crisis, the Department submits that an emergency rulemaking is both justified and proper.

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

The Department did not review or rely on any study related to this rulemaking package.

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

Not applicable

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

Not applicable. Pursuant to A.R.S. § 41-1055(D)(1), this rulemaking is exempt from the requirements to prepare and file an economic, small business and consumer impact statement.

**10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:**

**a. Whether the rule requires a permit, whether a general permit is used and, if not, the reasons why a general permit is not used:**

Not applicable

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and, if so, citation to the statutory authority to exceed the requirements of federal law:**

The rule is not more stringent than federal law.

**c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis comparing competitiveness was received by the Department.

**11. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

None

**12. An agency explanation about the situation justifying the rulemaking as an emergency rule:**

The Department tracks deaths of individuals who die of an opioid overdose and recently reported a significant increase in prescription and illicit drug overdose deaths in 2016, as published in a report available at: <http://azdhs.gov/documents/audiences/clinicians/clinical-guidelines-recommendations/prescribing-guidelines/arizona-opioid-report.pdf>. In response to the significant increase in drug overdose deaths and to comply with the Governor’s directive, the Department has immediately initiated this emergency rulemaking to address the public health epidemic. This situation was not caused by the Department’s delay or inaction. In



addition, given the additional time necessary to conduct a regular rulemaking, the current situation cannot be averted by a regular rulemaking (which at a minimum could take an additional six to eight months to complete).

**13. The date the Attorney General approved the rule:**

July 28, 2017

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

**TITLE 9. HEALTH SERVICES**  
**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES**  
**HEALTH CARE INSTITUTIONS: LICENSING**

**ARTICLE 1. GENERAL**

Section

R9-10-120. Opioid Prescribing and Treatment

**ARTICLE 1. GENERAL**

**R9-10-120. Opioid Prescribing and Treatment**

**A.** For purposes of this Section, the following definitions apply:

1. “Benzodiazepine” means any one of a class of drugs that have sleep-inducing, anti-anxiety, anti-convulsant, and muscle-relaxing properties and are commonly used in the treatment of anxiety.
2. “Opioid” means the same as “opiate” in A.R.S. § 36-2501.
3. “Opioid antagonist” means a drug approved by the U.S. Department of Health and Human Services, Food and Drug Administration, that, when administered, negates or neutralizes, in whole or in part, the pharmacological effects of an opioid in the body.
4. “Substance abuse risk assessment” means an evaluation of an individual’s unique likelihood for addiction, abuse, misuse, diversion, or another adverse consequence resulting from the individual being prescribed or receiving treatment with opioids.
5. “Terminal condition” means the final stage of an incurable or irreversible ailment, caused by injury, disease, or illness and from which, to a reasonable degree of medical certainty, there is no recovery.

**B.** Except as provided in subsection (E), a licensee of a health care institution where opioids are prescribed, ordered, or administered as part of treatment shall:

1. Establish, document, and implement policies and procedures for prescribing or ordering an opioid or administering an opioid as part of treatment, to protect the health and safety of a patient, that:
  - a. Cover which personnel members may prescribe or order an opioid or administer an opioid in treating a patient and the required knowledge and qualifications of these personnel members;
  - b. Except when contrary to medical judgment for a patient, are consistent with the Arizona Opioid Prescribing Guidelines or national opioid-prescribing guidelines, such as guidelines developed by the:
    - i. Centers for Disease Control and Prevention,
    - ii. Substance Abuse and Mental Health Services Administration, or
    - iii. American Society of Addiction Medicine;
  - c. Include how, when, and by whom:
    - i. A patient’s profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database is reviewed;
    - ii. A substance abuse risk assessment of a patient is conducted;
    - iii. The potential risks, adverse outcomes, and complications, including death, associated with the use of opioids are explained to a patient or the patient’s representative;
    - iv. Alternatives to a prescribed opioid are explained to a patient or the patient’s representative;
    - v. Informed consent is obtained from a patient or the patient’s representative;
    - vi. A patient receiving an opioid is monitored; and
    - vii. The actions taken according to subsections (B)(1)(c)(i) through (vi) are documented;
  - d. Cover conditions that may contraindicate prescribing an opioid or using an opioid in treatment, including:
    - i. Concurrent use of a benzodiazepine,
    - ii. History of opioid abuse,
    - iii. History of other substance abuse, or
    - iv. Pregnancy;
  - e. Cover the criteria for co-prescribing an opioid antagonist for a patient;
  - f. For a patient being prescribed an opioid, or for whom opioid administration is being ordered, for longer than a 30-calendar-day period, include the frequency of:
    - i. Face-to-face interactions with the patient,
    - ii. Conducting a substance abuse risk assessment of the patient,
    - iii. Renewal of a prescription for an opioid without a face-to-face interaction with the patient, and
    - iv. Monitoring the effectiveness of the treatment;
  - g. If applicable, include documenting a dispensed opioid in the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
  - h. Cover the criteria and procedures for tapering or discontinuing opioid prescription or administration as part of treatment; and



- i. Cover the criteria and procedures for offering or referring a patient for treatment for substance abuse;
      - 2. Include in the plan for the health care institution's quality management program a process for:
        - a. Review of incidents of opioid-related adverse reactions or other negative outcomes a patient experiences or opioid-related deaths; and
        - b. Surveillance and monitoring of adherence to the policies and procedures in subsection (B)(1); and
      - 3. Except as prohibited by Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2, ensure that, if a patient's death may be related to an opioid prescribed, ordered, or administered as part of treatment, written notification, in a Department-provided format, is provided to the Department of the patient's death within one working day after the health care institution learns of the patient's death.
  - C. Except as provided in subsection (E), an administrator shall ensure that, before prescribing an opioid or ordering the administration of an opioid as part of the treatment for a patient, an individual authorized by policies and procedures to prescribe or order an opioid in treating a patient:
    - 1. Conducts a physical examination of the patient;
    - 2. Reviews the patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
    - 3. Conducts a substance abuse risk assessment of a patient;
    - 4. Develops a treatment plan for the patient based on the:
      - a. Patient's diagnosis;
      - b. Patient's medical history, including co-occurring disorders;
      - c. Opioid to be prescribed;
      - d. Other medications or herbal supplements being taken by the patient;
      - e. Effectiveness of the patient's current treatment;
      - f. Duration of the current treatment;
      - g. Alternative treatments tried by or planned for the patient;
      - h. Expected benefit of a new treatment compared with continuing the current treatment; and
      - i. Other factors relevant to the patient;
    - 5. Explains to the patient the risks and benefits associated with the use of opioids;
    - 6. Explains alternatives to a prescribed opioid; and
    - 7. Obtains informed consent from the patient or the patient's representative that includes:
      - a. The patient's:
        - i. Name;
        - ii. Date of birth;
        - iii. Address;
        - iv. Condition for which opioids are being prescribed or used;
        - v. Telephone number; and
        - vi. E-mail address, if applicable;
      - b. The potential risks, adverse reactions, complications, and medication interactions associated with the use of opioids;
      - c. If the patient is also prescribed a benzodiazepine, the potential risks, adverse outcomes, and complications associated with the concurrent use of an opioid and benzodiazepine;
      - d. Alternatives to a prescribed opioid;
      - e. Name and signature of the personnel member explaining the use of an opioid to the patient; and
      - f. The signature of the patient or patient's representative and the date signed.
  - D. Except as provided in subsection (E), an administrator shall ensure that an individual authorized by policies and procedures to administer an opioid in treating a patient:
    - 1. Before administering an opioid in compliance with an order as part of the treatment for a patient, identifies the patient's pain before the opioid is administered;
    - 2. Monitors the patient's response to the opioid; and
    - 3. Documents in the patient's medical record:
      - a. An identification of the patient's pain before the opioid was administered, and
      - b. The effect of the opioid administered.
  - E. The requirements in subsections (B), (C), and (D) do not apply to a health care institution's prescription, ordering, or administration of opioids as part of treatment for a patient with a terminal condition.



**NOTICES OF EXPIRATION OF RULES  
UNDER A.R.S. § 41-1056(J)**

This section of the *Arizona Administrative Register* contains Notices of Expiration of Rules. Under A.R.S. § 41-1056(J), if an agency does not file a five-year rule review report with the Governor’s Regulatory Review Council (including a revised report); or if an agency does not file an extension before the due date of the report; or if an agency files an extension but does not submit a report

within the extension period; the rules scheduled for review expire.

The Council is required to notify the Secretary of State that the rules have expired and are no longer enforceable. The notice is published in the *Register*, and the rules are removed from the *Code*.

**GOVERNOR’S REGULATORY REVIEW COUNCIL  
NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)**

**DEPARTMENT OF REVENUE  
TRANSACTION PRIVILEGE AND USE TAX SECTION**

[R17-144]

- 1. **Agency name:** Department of Revenue
- 2. **Title and its heading:** 15, Revenue
- 3. **Chapter and its heading:** 5, Department of Revenue - Transaction Privilege and Use Tax Section
- 4. **Articles and their headings:** 22, Transaction Privilege Tax - Administration  
23, Use Tax  
30, Interim Rules
- 5. **As required by A.R.S. § 41-1056(J), the Council provides notice that the following rules expired as of March 30, 2017:**  
  - R15-5-2212. Payment of Taxes
  - R15-5-2313. Lease-purchase Agreements
  - R15-5-2321. Exemptions - Articles to be Incorporated into a Manufactured Product
  - R15-5-3035. Determination of taxable basis: nuclear fuel

- 6. **Signature is of Nicole O. Colyer** **Date of Signing**  
 /s/ July 31, 2017  
 Nicole O. Colyer  
 Chairwoman

**GOVERNOR’S REGULATORY REVIEW COUNCIL  
NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)**

**DEPARTMENT OF ENVIRONMENTAL QUALITY - ADMINISTRATION**

[R17-145]

- 1. **Agency name:** Department of Environmental Quality
- 2. **Title and its heading:** 18, Environmental Quality
- 3. **Chapter and its heading:** 1, Department of Environmental Quality - Administration
- 4. **Articles and their headings:** 2, Administrative Appeals
- 5. **As required by A.R.S. § 41-1056(J), the Council provides notice that the following rules expired as of April 28, 2017:**  
  - R18-1-201. Applicability
  - R18-1-202. Notice of Appeal
  - R18-1-203. Contested Case Procedures
  - R18-1-204. Record of Administrative Appeal
  - R18-1-206. Adjudicative Proceedings Before the Department



R18-1-207. Requests for Rehearing or Review

**6. Signature is of Nicole O. Colyer**

/s/

Nicole O. Colyer  
Chairwoman

**Date of Signing**

July 31, 2017




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## NOTICES OF RULEMAKING DOCKET OPENING

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This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

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### NOTICE OF RULEMAKING DOCKET OPENING DEPARTMENT OF INSURANCE

[R17-143]

1. **Title and its heading:** 20, Commerce, Financial Institutions, and Insurance  
**Chapter and its heading:** 6, Department of Insurance  
**Article and its heading:** 6, Types of Insurance Contracts  
**Section numbers:** R20-6-607 (*Sections may be added, deleted, or modified as necessary*).
2. **The subject matter of the proposed rule:**  
 The Department of Insurance (“Department”) seeks to propose an amendment to the current regulation to correct some reference errors and to update the subsection governing the reasonableness of benefits in relation to premium charged with respect to individual disability insurance policies and forms. The Department seeks to adjust the dollar thresholds for low-dollar premium policies under A.A.C. R20-6-607(G). The Department established the prior thresholds in 1981. The current thresholds are based on the Consumer Price Index. The effect of this rule change is to allow insurers to charge more for policies that meet the low-dollar premium category, and thus are subject to the lesser loss ratio standard.
3. **A citation to all published notices relating to the proceeding:**  
 None
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
 Name: Mary E. Kosinski  
 Address: Department of Insurance  
 2910 N. 44th St., Suite 210  
 Phoenix, AZ 85018  
 Telephone: (602) 364-3471  
 E-mail: mkosinski@azinsurance.gov
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
 Due to the limited nature of the amendments being proposed, the Department has no plans to hold a hearing on the proposed rulemaking at this time. However, the Department will schedule an oral proceeding on the proposed rule if, within 30 days after the published notice, a written request for an oral proceeding is submitted to the contact person listed in paragraph 4 of this Notice. The Department will accept written comments for 30 days after the published notice at: public\_comments@azinsurance.gov.
6. **A timetable for agency decisions or other action on the proceeding, if known:**  
 The Department plans to submit a Notice of Proposed Rulemaking in the third quarter of 2017.



GOVERNOR EXECUTIVE ORDERS

The Administrative Procedure Act (APA) requires the full-text publication of Governor Executive Orders.

With the exception of egregious errors, content (including spelling, grammar, and punctuation) of these orders has been reproduced as submitted.

In addition, the Register shall include each statement filed by the Governor in granting a commutation, pardon or reprieve, or stay or suspension of execution where a sentence of death is imposed.

EXECUTIVE ORDER 2017-02

Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies

[M17-23]

Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2017, as a notice to the public regarding state agencies' rulemaking activities.

WHEREAS, burdensome regulations inhibit job growth and economic development;

WHEREAS, job creators and entrepreneurs are especially hurt by red tape and regulations;

WHEREAS, all government agencies of the State of Arizona should promote customer-service-oriented principles for the people that it serves;

WHEREAS, each State agency should undertake a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay, and legal uncertainty associated with government regulation;

WHEREAS, overly burdensome, antiquated, contradictory, redundant, and nonessential regulations should be repealed;

WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor;

NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

- 1. A State agency subject to this Order, shall not conduct any rulemaking except as permitted by this Order.
2. A State agency subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
c. To prevent a significant threat to the public health, peace, or safety.
d. To avoid violating a court order or federal law that would result in sanctions by a court of the federal government against an agency for failure to conduct the rulemaking action.
e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
f. To comply with a state statutory requirement.
g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
j. To eliminate rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
3. All directors of state agencies subject to this Order shall engage their respective regulated or stakeholder communities to solicit comment on which rules the regulated community believes to be overly burdensome and not necessary to protect consumers, public health, or public safety. Each agency shall submit a report regarding the aforementioned information to the Governor's Office no later than September 1, 2017.
4. For the purposes of this Order, the term "State agencies," includes without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those State agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
5. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, "person," "rule," and "rulemaking" have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.



6. This Executive Order expires on December 31, 2017.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

**Douglas A. Ducey**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this Eleventh day of January in the Year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**

**Michele Reagan**  
**SECRETARY OF STATE**



**GOVERNOR PROCLAMATIONS**

The Administrative Procedure Act (APA) requires the publication of Governor proclamations of general applicability, and ceremonial dedications issued by the Governor.

**GUILLAIN-BARRÉ SYNDROME AND CHRONIC INFLAMMATORY DEMYELINATING POLYNEUROPATHY AWARENESS MONTH**

[M17-225]

**WHEREAS**, the month of May has been designated as “GBS and CIDP Awareness Month” to educate the public and to focus attention on Guillain-Barré Syndrome (GBS) and Chronic Inflammatory Demyelinating Polyneuropathy (CIDP), rare, paralyzing and potentially catastrophic disorders of the peripheral nerves, the cause of which is unknown; and

**WHEREAS**, GBS and CIDP can develop in any person at any age, regardless of gender or ethnic background; and

**WHEREAS**, GBS and CIDP are characterized by the onset over hours or weeks of weakness and often, paralysis of the legs, arms, breathing muscles and face, potentially leading to difficulty breathing, chewing and swallowing; and

**WHEREAS**, the course of GBS and CIDP varies widely; some experience a single episode of symptoms by spontaneous recovery, while others have repeated bouts with partial recovery between relapses; and

**WHEREAS**, in 1980, the Guillain-Barré Syndrome Foundation International (now the GBS/CIDP Foundation International), was founded to provide a support network to patients and their families.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim May 2017 as

**GUILLAIN-BARRÉ SYNDROME AND CHRONIC INFLAMMATORY DEMYELINATING POLYNEUROPATHY AWARENESS MONTH**

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this first day of May in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**  
**Michele Reagan**  
**SECRETARY OF STATE**

**HETEROTAXY SYNDROME AWARENESS DAY**

[M17-226]

**WHEREAS**, heterotaxy syndrome is a congenital condition that affects the development, placement and presence of internal organs, and requires a team of many specialists for treatment; and

**WHEREAS**, the public is unaware of heterotaxy syndrome, including many medical professionals; and

**WHEREAS**, families struggle to educate medical teams and are often the only common thread between medical specialties; and

**WHEREAS**, mortality is high, but due to lack of tracking and research, the exact numbers are unclear; and

**WHEREAS**, Heterotaxy Syndrome Awareness Day provides an opportunity for families whose lives have been affected to celebrate life and to remember loved ones lost, to honor dedicated health professionals, and to meet others and know they are not alone; and

**WHEREAS**, the establishment of Heterotaxy Syndrome Awareness Day will also provide the opportunity to share experience and information with the public and the media, in order to raise awareness about heterotaxy syndrome.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim May 4, 2017 as

**HETEROTAXY SYNDROME AWARENESS DAY**

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this twelfth day of April in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**



**Michele Reagan**  
SECRETARY OF STATE

**LUPUS AWARENESS MONTH**

[M17-227]

**WHEREAS**, lupus is a cruel and mysterious chronic (lifelong) autoimmune disease in which the immune system is unbalanced, causing inflammation and tissue damage to virtually every organ system in the body; and

**WHEREAS**, lupus can affect any part of the body, including the skin, lungs, heart, kidneys, and brain. No organ is spared. The disease can cause seizures, strokes, heart attacks, miscarriages, and organ failure; and

**WHEREAS**, while lupus strikes mostly women of childbearing age, no one is safe from lupus. African Americans, Hispanics/Latinos, Asians and Native Americans are two to three times more likely to develop lupus – a disparity that remains unexplained; and

**WHEREAS**, an estimated 30,000 Arizonans have lupus; and

**WHEREAS**, lupus can be particularly difficult to diagnose because its symptoms are similar to those of many other illnesses, and major gaps exist in understanding the causes and consequences of lupus. More than half of all people with lupus take four or more years and visit three or more doctors before obtaining a correct diagnosis; and

**WHEREAS**, there has been only one new drug approved by the U.S. Food and Drug Administration specifically for lupus in 57 years; current treatments for the disease can have damaging side effects.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim May 2017 as

**LUPUS AWARENESS MONTH**

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**

**GOVERNOR**

**DONE** at the Capitol in Phoenix on this first day of May in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**

**Michele Reagan**  
SECRETARY OF STATE

**MENTAL HEALTH AWARENESS MONTH**

[M17-228]

**WHEREAS**, mental health is essential to everyone's overall health and well-being; and

**WHEREAS**, mental illnesses are real and prevalent in our nation, and about half of Americans will experience some form of mental health problems at some point in their lives; and

**WHEREAS**, all Americans experience times of difficulty and stress in their lives, and should feel comfortable in seeking help and support to manage these times; and

**WHEREAS**, engaging in prevention, early identification, and early intervention are effective ways to reduce the burden of mental illnesses; and

**WHEREAS**, there is a strong body of research that identifies behavioral health risks and supports specific tools that all Americans can use to protect their health and well-being; and

**WHEREAS**, with effective treatment before Stage 4, all individuals with mental illnesses – even serious mental illnesses – can make progress toward recovery and lead full, productive lives; and

**WHEREAS**, the Arizona Department of Health Services, the Arizona Department of Corrections, local business, schools, government agencies, healthcare providers, and any other type of organization as well as citizens, have a responsibility to promote the mental well-being as part of a person's overall health.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim May 2017 as

**MENTAL HEALTH AWARENESS MONTH**

and urge Arizona citizens to re-commit to increasing awareness and understanding of mental health in adults and children.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
GOVERNOR



DONE at the Capitol in Phoenix on this first day of May in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

ATTEST:
Michele Reagan
SECRETARY OF STATE

MILITARY APPRECIATION MONTH
and
ARMED FORCES DAY

[M17-229]

WHEREAS, the Armed Forces of the United States continues to serve as a unified team, at home and at installations throughout the world, insuring our own security and the security of our allies, and fostering the settlement of international differences by peaceful processes; and

WHEREAS, enlightened understanding and unwavering support of our Armed Forces by an informed American people are vital to the strength and vigor of our Armed Forces; and

WHEREAS, our soldiers, sailors, airmen, marines, and coastguardsmen, from whom we ask so much, are the cornerstone of our military might and richly deserve to have a special day set aside in their honor; and

WHEREAS, Armed Forces Day is celebrated annually on the third Saturday of May to thank our military members for their patriotic service in support of our country; and

WHEREAS, our citizens owe a significant debt of gratitude to our Armed Forces members.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim May 2017 as

MILITARY APPRECIATION MONTH
and May 20, 2017 as
ARMED FORCES DAY

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

Douglas A. Ducey
GOVERNOR

DONE at the Capitol in Phoenix on this twenty-fifth day of April in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

ATTEST:
Michele Reagan
SECRETARY OF STATE

MOTORCYCLE SAFETY AND AWARENESS MONTH

[M17-230]

WHEREAS, motorcycle riding is a popular form of recreation and transportation for thousands of people across Arizona and our Nation; and

WHEREAS, the safe operation of a motorcycle requires the use of special skills developed through a combination of training and experience, the use of good judgment, and thorough knowledge of traffic laws and licensing requirements; and

WHEREAS, it is especially important that the residents of Arizona be aware of motorcycles on the streets and highways and recognize the importance of motorcycle safety; and

WHEREAS, all highway users are being encouraged to safely share the roadway throughout Arizona.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim May 2017 as

MOTORCYCLE SAFETY AND AWARENESS MONTH

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

Douglas A. Ducey
GOVERNOR

DONE at the Capitol in Phoenix on this twenty-eighth day of March in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

ATTEST:
Michele Reagan
SECRETARY OF STATE



**NECROTIZING FASCIITIS AWARENESS MONTH**

[M17-231]

**WHEREAS**, necrotizing fasciitis is an uncommon bacterial skin infection that spreads quickly and is often referred to as the “flesh eating bug or virus;” and

**WHEREAS**, this rare disease can be caused by more than one type of bacteria including group A Streptococcus (group A strep), Klebsiella, Clostridium, Escherichia coli, Staphylococcus aureus, and Aeromonas hydrophila; and

**WHEREAS**, necrotizing fasciitis can occur in any age group, and can be seen in those with diabetes mellitus, atherosclerotic vascular disease, malignancy and hypertension; and

**WHEREAS**, in rare occasions it may occur following minor injuries to the skin, falls, cuts or tears but sometimes is not apparent and can occur in apparently healthy individuals; and

**WHEREAS**, while progress has been made in understanding the symptoms and better diagnosing the disease, there is still much to learn about necrotizing fasciitis, but with increased research, the goals of discovering the cause, improving treatment and finding a cure are attainable.

**NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim May 2017 as**

**NECROTIZING FASCIITIS AWARENESS MONTH**

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this twenty-fifth day of April in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**

**Michele Reagan**  
**SECRETARY OF STATE**

**NEUROMYELITIS OPTICA AWARENESS MONTH**

[M17-232]

**WHEREAS**, Neuromyelitis Optica (NMO) is a rare autoimmune disorder in which the immune system cells and antibodies primarily attack the optic nerves and spinal cord; and

**WHEREAS**, NMO causes damage to the optic nerves and spinal cord which can lead to inflammation, pain, loss of vision, weakness, paralysis in the legs and arms, loss of sensation, and problems with bladder and bowel function; and

**WHEREAS**, NMO is more common in women than men by 80 percent, and occurs in all parts of the world; and

**WHEREAS**, NMO can occur at any age in children as young as 3 and adults as old as 90, and its most common between the ages of 40-50; and

**WHEREAS**, early diagnosis of NMO is critical, and if untreated can lead to devastating and irreversible effects, and while there is no cure for NMO, with early detection, individuals diagnosed can receive medical attention; and

**WHEREAS**, it is important to improve public awareness of NMO so it can be diagnosed at the earliest stage possible and proper treatment can begin.

**NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim March 2017 as**

**NEUROMYELITIS OPTICA AWARENESS MONTH**

in support of patients, families, advocates, researchers, and medical professionals and encourage all Arizonans to support those who dedicate their time and expertise to raise awareness regarding this disorder.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this fourteenth day of March in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**

**Michele Reagan**  
**SECRETARY OF STATE**



**OLDER AMERICANS MONTH**

[M17-233]

**WHEREAS**, Arizona is proud to be home to more than 1.3 million older Americans who embody wide-ranging diversity in both background and perspective; and

**WHEREAS**, by 2050 the number of Arizonans age 65 and older is expected to increase 174 percent, accounting for a projected 21 percent of the entire state population; and

**WHEREAS**, with increased longevity and the ability to be productive for more years of life Arizona’s aging adults are an increasingly valuable resource; and

**WHEREAS**, older Arizonans should be cherished for their knowledge and commended for their contributions in building our communities; and

**WHEREAS**, older adults in Arizona are now, more than ever before, taking charge of their lives, striving for wellness, focusing on independence, and advocating for themselves and others; and

**WHEREAS**, Arizona can provide opportunities to enrich the lives of individuals of *all ages* by:

- involving older adults in the redefinition of aging in our community;
- promoting home and community-based services that support independent living;
- encouraging older adults to speak up for themselves and others; and
- providing opportunities for older adults to share their experiences.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim May 2017 as

**OLDER AMERICANS MONTH**

and I urge residents to take time this month to recognize older adults and the people who serve and support them as powerful and vital individuals who greatly contribute to the community.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this first day of May in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**  
**Michele Reagan**  
**SECRETARY OF STATE**

**PRIVATE POSTSECONDARY EDUCATION MONTH**

[M17-234]

**WHEREAS**, Private Postsecondary Colleges and Technical Schools in Arizona currently provide education and training to more than 380,000 students annually; and

**WHEREAS**, Private Postsecondary Colleges and Technical Schools employ over 12,000 Arizonans, providing job related skills and education to Arizona’s workforce; and

**WHEREAS**, Private Postsecondary Institutions contribute directly to the economic welfare of Arizona through the payment of income, property, and employment taxes; and

**WHEREAS**, these Private non-tax supported Postsecondary Institutions provide focused, personalized training and education in areas of concentration vital to the continued growth and prosperity of Arizona and its citizens.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim May 2017 as

**PRIVATE POSTSECONDARY EDUCATION MONTH**

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this twenty-eighth day of March in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**  
**Michele Reagan**  
**SECRETARY OF STATE**



COUNTY NOTICES ACCORDING TO A.R.S. § 49-112

This section of the Arizona Administrative Register contains County Notices (according to A.R.S. § 49-112).

Each county writes rules and regulations in its own unique style. Although these notices are published in the Register, they do not conform to the standards specified in

the Arizona Rulemaking Manual. With the exception of minor formatting changes, County Notices (including subsection labeling, spelling, grammar, and punctuation) are reproduced as submitted.

NOTICE OF PROPOSED ORDINANCE OF COCONINO COUNTY, PURSUANT TO A.R.S. § 49-371(H)

[M17-220]

1. **Heading and number of the proposed rule, ordinance or other regulation:**

Ordinance 2017- 08: Coconino County Stormwater Quality and Runoff Control Ordinance

2. **Summary of the proposed rules, ordinance, or other regulation:**

Coconino County meets the minimum federal requirements for designation by the United State Environmental Protection Agency (EPA) as a Small Municipal Separate Storm Sewer Operator. As an Operator, the County is required by the Federal Water Pollution Control act of 1972, commonly known as the Clean Water Act (as amended), to implement and enforce a program to improve to the maximum extent practicable the quality of Stormwater in the County’s Stormwater conveyance systems within the designated County SMS4 areas.

The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of Coconino County through the prohibition of the introduction of non-Stormwater drainages to the County system(s) of Stormwater conveyances to the maximum extent practicable, as required by federal and state law. This Ordinance will also protect Waters of the U.S. within Coconino County by improving the quality of the Stormwater runoff from urbanized areas into the County-owned system(s), through the use of best management practices.

This Ordinance ensures that the County is compliant with its Arizona Pollutant Discharge and Elimination System (AZPDES) permit by establishing methods for controlling the introduction of pollutants into the County’s Small Municipal Separate Storm Sewer Systems (SMS4s). The objectives of this Ordinance are:

- 1. To regulate the contribution of pollutants to the County SMS4s by storm water drainage in unincorporated, urbanized areas by any user.
- 2. To prohibit illicit connections and drainages to the County SMS4s.
- 3. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this Ordinance.

3. **Name and address of the person to whom persons may address questions or written comments:**

Coconino County Community Development  
ATTN: County Hydrologist  
2500 N. Fort Valley Rd.  
Flagstaff, AZ 86001

4. **Date Comment Period Closes:**

All written comments must be submitted by September 18, 2017.

5. **Where persons may obtain a full copy of the proposed rule, ordinance, or other regulation:**

- In-Person:
  - Coconino County Clerk of the Board of Supervisors
  - 219 E. Cherry Avenue
  - Flagstaff, AZ 86001
  - Or
  - Coconino County Community Development
  - 2500 N. Fort Valley Rd.
  - Flagstaff, AZ 86001
- Online:
  - <http://www.coconino.az.gov/DocumentCenter/View/18156>



NOTICE OF PUBLIC HEARING ON PROPOSED ORDINANCE, PURSUANT TO A.R.S. § 49-112(D)(4)

[M17-242]

- 1. **Name of the Agency:**  
Coconino County
- 2. **Title of proposed ordinance to be considered for adoption at public hearing:**  
Ordinance 2017- 08: Coconino County Stormwater Quality and Runoff Control Ordinance
- 3. **The date, time, and location of the public hearing:**  
Date: September 26, 2017  
Time: 6:00 p.m.  
Location: Board of Supervisors' Meeting Room  
County Administrative Center  
219 East Cherry Avenue, First Floor  
Flagstaff, Arizona 86001

- 4. **Name and address of the person to whom persons may address questions or written comments:**  
Coconino County Community Development  
ATTN: County Hydrologist  
2500 N. Fort Valley Rd.  
Flagstaff, AZ 86001

- 5. **Other information:**  
Any person wishing to testify at the public hearing may file a written comment on or before September 18, 2017 and/or may appear and be heard at the hearing.

**NOTICE OF PROPOSED RULEMAKING  
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS  
REGULATION III – CONTROL OF AIR CONTAMINANTS  
RULE 317: HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS**

[M17-221]

PREAMBLE

- |  |                          |
|--|--------------------------|
| <b>1. Rule affected</b>                                  | <b>Rulemaking action</b> |
| Rule 317: Hospital/Medical/Infectious Waste Incinerators | Rescind                  |
- 2. **Statutory authority for the rulemaking:**  
Authorizing statutes: A.R.S. §§ 49-474, 49-479, and 49-480  
Implementing Statute: A.R.S. § 49-112
  - 3. **List of public notices addressing the rulemaking:**  
Notice of Briefing to Maricopa County Manager: May 15, 2017  
Notice of Stakeholder Workshop: June 15, 2017
  - 4. **Name and address of department personnel with whom persons may communicate regarding the rulemaking:**  
Name: Greg Verkamp or Hether Krause  
Maricopa County Air Quality Department  
Planning and Analysis Division  
Address: 1001 N Central Avenue, Suite 125  
Phoenix, AZ 85004  
Telephone: (602) 506-6010  
Fax: (602) 506-6179  
Submit Comments At: <http://maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>
  - 5. **Explanation of the rule, including the department's reasons for initiating the rulemaking:**  
The Maricopa County Air Quality Department (department) is proposing to rescind Rule 317 (Hospital/Medical/Infectious Waste Incinerators) adopted April 7, 1993 and revised six times thereafter. The purpose of Rule 317 is to control emissions of air pollutants from hospital/medical/infectious waste incinerator(s) (HMIWI). There are currently no HMIWI in Maricopa County and the department's records indicate the last HMIWI permit was closed (source was removed) in 1998. The department does not anticipate any new HMIWI will locate to Maricopa County and is proposing to rescind Rule 317.  
Hospital/medical/infectious waste incineration was initially regulated under Rule 313 (Incinerators), however; county representatives determined Rule 313 lacked the necessary provisions to adequately characterize HMIWI and to adequately control their emissions. HMIWI differ from other incinerators in that they regularly burn large amounts of plastic (i.e. containers, bags, wrappings, and syringes). Rule 317 was adopted, in part, to add new temperature and residence time requirements to ensure effective combustions of the plastics. In addition, Rule 317 added emission limits, burning restrictions and monitoring requirements that were not part of Rule 313. In 1997, the U.S. Environmental Protection Agency (EPA) promulgated new source performance standards (NSPS) and emission guidelines (EG) to reduce air emissions from HMIWI. Maricopa County revised Rule 317 in 1999 to incorporate the new emission guidelines and bring the rule into conformity with the Clean Air Act. The August 1997 EPA fact sheet associated with the emission guidelines predicted the costs of complying with the new guidelines would force many facilities to choose alternative methods to treat



and dispose of hospital/medical/infectious waste. The EPA predictions have proven to be true as the number of HMIWI in the United States has decreased significantly since the new standards and guidelines were promulgated. Most hospital/medical/infectious waste is now treated using alternative technologies such as thermal treatment (microwave technologies), steam sterilization (autoclaving) and chemical and mechanical treatment.

**6. Demonstration of compliance with A.R.S. §49-112:**

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following requirements are met:

1. The rule, ordinance or regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or regulation is either;
  - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
  - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or regulation does not exceed the reasonable costs of the county to issue and administer the permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The department is in compliance with A.R.S. §§ 49-112(A) and (B). The department is proposing to rescind Rule 317.

**7. Documents and/or studies referenced and/or reviewed for this rulemaking:**

Not applicable

**8. 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:**

Not applicable

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

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement under A.R.S. § 41-1055.

**An identification of the rulemaking.**

This rulemaking is proposing to rescind Rule 317 (Hospital/ Medical/Infectious Waste Incinerators).

**An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.**

This rulemaking is proposing to rescind Rule 317. There are currently no sources subject to Rule 317 in Maricopa County and the department does not anticipate any new sources will come to Maricopa County that would potentially be subject to Rule 317.

**A cost benefit analysis of the following:**

**(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on either the department or any other agency.

**(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any political subdivision of this state.

**(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any businesses.

**A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.**



Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an impact on private and public employment for any businesses, agencies or political divisions.

**A statement of the probable impact of the rulemaking on small businesses.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any small businesses.

**(a) An identification of the small businesses subject to the rulemaking.**

There are no small businesses subject to Rule 317.

**(b) The administrative and other costs required for compliance with the rulemaking.**

This rulemaking is proposing to rescind Rule 317; there are no costs required for compliance. There are no sources subject to Rule 317.

**(c) A description of the methods that the agency may use to reduce the impact on small businesses.**

**(i) Establishing less costly compliance requirements in the rulemaking for small businesses.**

This rulemaking is proposing to rescind Rule 317 and there are no compliance costs required for small businesses.

**(ii) Establishing less costly schedules or less stringent deadlines for compliance in the rulemaking.**

This rulemaking is proposing to rescind Rule 317 and there are no compliance costs required for small businesses.

**(iii) Exempting small businesses from any or all requirements of the rulemaking.**

This rulemaking is proposing to rescind Rule 317 and there are no compliance costs required for small businesses.

**(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.**

This rulemaking does not impose any new compliance burdens on regulated entities that are permitted or introduce additional regulatory requirements and will not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated. As such, there are no costs to pass through to consumers, which means there are no impacts on consumers.

**A statement of the probable effect on state revenues.**

The rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

**A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.**

This rulemaking is proposing to rescind Rule 317 and there are no compliance costs associated with the rulemaking.

**10. Name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact:**

Name: Greg Verkamp or Hether Krause  
Maricopa County Air Quality Department  
Planning and Analysis Division  
Address: 1001 N Central Avenue, Suite 125  
Phoenix, AZ 85004  
Telephone: (602) 506-6010  
Fax: (602) 506-6179

Submit Comments At: <http://maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

**11. Time, place, and nature of the proceedings for the rulemaking:**

Written oral proceeding requests or written comments or both will be accepted until the record is closed on September 18, 2017, 5:00 p.m. Written oral proceeding requests or written comments or both may be submitted to the department (see Item #4 of this notice). An oral proceeding will be scheduled only upon receipt of a written request before the record is closed on September 18, 2017, 5:00 p.m. Written comments received during the comment period and before the record is closed on September 18, 2017, 5:00 p.m. will be considered formal comments to the Notice of Proposed Rulemaking and will be responded to in the Notice of Final Rulemaking.

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

Not applicable

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

Not applicable

**14. Full text of the rule follows:**

~~REGULATION III — CONTROL OF AIR CONTAMINANTS  
RULE 317  
HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS  
INDEX~~

~~SECTION 100 — GENERAL~~

- ~~101 PURPOSE~~
- ~~102 APPLICABILITY~~
- ~~103 AVAILABILITY OF INFORMATION~~

~~SECTION 200 — DEFINITIONS~~

- ~~201 BATCH/HMIWI~~
- ~~202 BIOLOGICALS~~



- 203 BLOOD PRODUCTS
- 204 BODY FLUIDS
- 205 CHEMOTHERAPEUTIC WASTE
- 206 CO FIRED COMBUSTOR
- 207 CONTINUOUS HMIWI
- 208 CREMATORY
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- 210 HOSPITAL
- 211 HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATOR
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- 213 HOSPITAL WASTE
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- 218 MAXIMUM CHARGE RATE
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- 501 PROVIDING AND MAINTAINING MONITORING DEVICES
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Adopted 04/07/93  
 Revised 04/07/99  
 Revised 11/19/03  
 Revised 03/15/06  
 Revised 12/17/08  
 Revised 09/16/09  
 Revised 07/07/10

**MARICOPA COUNTY**  
**AIR POLLUTION CONTROL REGULATIONS**  
**REGULATION III—CONTROL OF AIR CONTAMINANTS**  
**RULE 317**  
**HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS**

**SECTION 100—GENERAL**

- 101 PURPOSE:** To control emissions of air pollutants from Hospital/Medical/Infectious Waste incinerators.
- 102 APPLICABILITY:** A Hospital/Medical/Infectious Waste Incinerator (HMIWI) commenced on or before June 20, 1996, or for which construction commenced on or before June 20, 1996, shall comply with this rule unless it fits any one of the following exceptions:
  - 102.1** A combustor is not subject to this rule when only pathological waste, low level radioactive waste, and/or chemotherapeutic waste is burned, provided the owner or operator of the combustor:
    - a. Notifies the Control Officer of an exemption claim; and
    - b. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low level radioactive waste, and/or chemotherapeutic waste is burned.
  - 102.2** Any co-fired combustor is not subject to this rule if the owner or operator of the co-fired combustor:
    - a. Notifies the Control Officer of an exemption claim; and
    - b. Provides an estimate of the relative weight of hospital waste, medical/infectious waste, and other fuels and/or wastes to be combusted; and



- e. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.
- 102.3** Any combustor required to have a permit under Title 42, United States Code (U.S.C.), Section 6925, Section 3005 of the Solid Waste Disposal Act is not subject to this rule.
- 102.4** Any combustor which meets the applicability requirements under 40 CFR 60, Subparts Cb, Ea, or Eb (standards or guidelines for certain municipal waste-combustors) is not subject to this rule.
- 102.5** Any pyrolysis unit is not subject to this rule.
- 102.6** Cement kilns firing hospital waste or medical/infectious waste are not subject to this rule.
- 102.7** Physical or operational changes made to an existing HMIWI unit solely for the purpose of complying with emission guidelines under this rule are not considered a modification and do not result in an existing HMIWI unit becoming subject to the provisions of 40 CFR 60, Subpart Ec.
- 102.8** HMIWI subject to this Section are not subject to Rule 313.
  - a. A crematory whose incinerator burns only human remains is not a HMIWI and is not subject to this rule. It is subject to Rule 313. However, if the incinerator burns 10 percent or less of hospital waste and medical/infectious waste, it is a co-fired combustor subject only to notification and recordkeeping requirements, as specified in Section 102.2.c of this rule. If the incinerator burns more than 10 percent hospital waste and medical/infectious waste, it is subject to all of the requirements of this rule.
  - b. Any co-fired combustor or combustor that is not subject to this rule is still subject to Rule 313. (See Applicability, Sections 102.2, 102.3 and 102.4 of this rule.)
- 103** **AVAILABILITY OF INFORMATION:** Copies of the CFR referenced in this rule are available at the Maricopa County Air Quality Department, 1001 N. Central Ave., Phoenix, AZ, 85004, or by calling (602) 506-0169 for information.
- SECTION 200— DEFINITIONS:** See Rule 100 of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definitions shall apply:
  - 201** **BATCH HMIWI**—An HMIWI that is designed such that neither waste charging nor ash removal can occur during combustion.
  - 202** **BIOLOGICALS**—Preparations made from living organisms and their products. This includes vaccines, cultures, etc., intended for use in diagnosing, immunizing, or treating humans or animals or in research.
  - 203** **BLOOD PRODUCTS**—Any product derived from human blood, including, but not limited to, blood plasma, platelets, red or white blood corpuscles, and other derived licensed products, such as interferon, etc.
  - 204** **BODY FLUIDS**—Liquid emanating or derived from humans and limited to blood; dialysate; amniotic, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids; and semen and vaginal secretions.
  - 205** **CHEMOTHERAPEUTIC WASTE**—Waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.
  - 206** **CO-FIRED COMBUSTOR**—A unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, 10 percent or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered “other” wastes when calculating the percentage of hospital waste and medical/infectious waste combusted.
  - 207** **CONTINUOUS HMIWI**—An HMIWI that is designed to allow waste charging and ash removal during combustion.
  - 208** **CREMATORY**—An incinerator used for the cremation of human and animal bodies, their body parts, and for the incineration of associated animal bedding.
  - 209** **DIOXINS/FURANS**—The combined emissions of tetra through octa-chlorinated dibenzo-para-dioxins and dibenzofurans, as measured by the EPA Reference Method 23, found in 40 CFR Part 60, Appendix A.
  - 210** **HOSPITAL**—Any facility which has an organized medical staff, maintains at least six inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human impatience who are not related and who stay on average in excess of 24 hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuing medical supervision.
  - 211** **HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATOR OR HMIWI OR HMIWI UNIT**—Any device that combusts any amount of hospital waste or medical/infectious waste.
  - 212** **HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATOR OPERATOR OR HMIWI OPERATOR**—Any person who operates, controls or supervises the day to day operation of an HMIWI.
  - 213** **HOSPITAL WASTE**—Discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.
  - 214** **INFECTIOUS AGENT**—Any organism (such as a virus or bacteria) that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.
  - 215** **INTERMITTENT HMIWI**—An HMIWI that is designed to allow waste charging, but not ash removal, during combustion.
  - 216** **LARGE HMIWI:**
    - 216.1** Except as provided in Section 216.2:
      - a. An HMIWI whose maximum design waste burning capacity is more than 500 pounds per hour; or
      - b. A continuous or intermittent HMIWI whose maximum charge rate is more than 500 pounds per hour; or
      - c. A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day.
    - 216.2** Each of the following is not a large HMIWI:



- a. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 500 pounds per hour; or
  - b. A batch HMIWI whose maximum charge rate is less than or equal to 4,000 pounds per day.
- 217 **LOW-LEVEL RADIOACTIVE WASTE**—Waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)).
- 218 **MAXIMUM CHARGE RATE:**
  - 218.1 For continuous and intermittent HMIWI, 110 percent of the lowest 3-hour average charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limits.
  - 218.2 For batch HMIWI, 110 percent of the lowest daily charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limits.
- 219 **MAXIMUM DESIGN WASTE BURNING CAPACITY:**
  - 219.1 For intermittent and continuous HMIWI,  $C = P_V \times 15,000/8,500$   
Where:  
C = HMIWI capacity, lb/hr  
 $P_V$  = primary chamber volume,  $ft^3$   
15,000 = primary chamber heat release rate factor, Btu/ $ft^2$ /hr  
8,500 = standard waste heating value, Btu/lb.
  - 219.2 For batch HMIWI,  $C = PV \times 4.5/8$   
Where:  
C = HMIWI capacity, lb/hr  
PV = primary chamber volume,  $ft^2$   
4.5 = waste density, lb/ $ft^3$   
8 = typical hours of operation of a batch HMIWI.
- 220 **MEDICAL/INFECTIOUS WASTE**—Any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research, or in the production or testing of biologicals that is listed in Sections 220.1 through 220.7 of this rule. The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in 40 CFR Part 261; household waste, as defined in 40 CFR 261.4(b)(1); ash from incineration of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment; cremation; and domestic sewage materials identified in 40 CFR 261.4(a)(1). Medical/infectious waste does include:
  - 220.1 Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.
  - 220.2 Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.
  - 220.3 Human blood and blood products including:
    - a. Liquid waste human blood;
    - b. Products of blood;
    - c. Items saturated and/or dripping with human blood; or
    - d. Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.
  - 220.4 Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.
  - 220.5 Animal waste including contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.
  - 220.6 Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.
  - 220.7 Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.
- 221 **MEDIUM HMIWI:**
  - 221.1 Except as provided in Section 221.2:
    - a. An HMIWI whose maximum design waste burning capacity is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or
    - b. A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or
    - c. A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day but less than or equal to 4,000 pounds per day.



**221.2** The following are not medium HMIWI:

- a. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour or more than 500 pounds per hour; or
- b. A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day or less than or equal to 1,600 pounds per day.

**222** **PATHOLOGICAL WASTE**—Waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material, and animal bedding (if applicable).

**223** **PYROLYSIS**—The endothermic gasification of hospital waste or medical/infectious waste using external energy.

**224** **SHUTDOWN**—The period of time after all waste has been combusted in the primary chamber. For continuous HMIWI, shutdown shall commence no less than 2 hours after the last charge to the incinerator. For intermittent HMIWI, shutdown shall commence no less than 4 hours after the last charge to the incinerator. For batch HMIWI, shutdown shall commence no less than 5 hours after the high air phase of combustion has been completed.

**225** **SMALL HMIWI:**

**225.1** Except as provided in Section 225.2:

- a. An HMIWI whose maximum design waste burning capacity is less than or equal to 200 pounds per hour; or
- b. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour; or
- e. A batch HMIWI whose maximum charge rate is less than or equal to 1,600 pounds per day.

**225.2** The following are not small HMIWI:

- a. A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour; or
- b. A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day.

**SECTION 300—STANDARDS**

**301** **HMIWI STANDARDS:** An existing HMIWI covered by this Section shall comply with 40 CFR 60, Subpart Ee, and all accompanying appendices, as modified by this subsection. 40 CFR 60, Subpart Ee “Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996” is incorporated by reference in Rule 360 of the Maricopa County Air Pollution Control Regulations. Each owner or operator of an affected facility shall comply with the requirements of 40 CFR 60, Subpart Ee, as adopted and, where applicable, revised herein.

**302** **HMIWI EMISSIONS GUIDELINES:** An HMIWI shall comply with the emissions guidelines listed in Table 317.1 below:

**Table 317.1. Emission Limits for Small, Medium, and Large HMIWI.**

Pollutant	Units (7% oxygen, dry basis)	Emission Limits (by HMIWI size)		
		Small	Medium	Large
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	0.16 (0.07) or 65%	0.16 (0.07) or 65%	0.16 (0.07) or 65%
Carbon monoxide	Parts per million by volume	40	40	40
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)
Hydrogen chloride	Parts per million by volume or percent reduction	100 or 93%	100 or 93%	100 or 93%
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	1.2 (0.52) or 70%	1.2 (0.52) or 70%	1.2 (0.52) or 70%
Mercury	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	0.55 (0.24) or 85%	0.55 (0.24) or 85%	0.55 (0.24) or 85%
Nitrogen oxides	Parts per million by volume	250	250	250
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	115 (0.05)	69 (0.03)	34 (0.015)
Sulfur dioxide	Parts per million by volume	55	55	55

**303** **OPACITY:** No owner or operator of an HMIWI shall cause to be discharged into the atmosphere from the stack of that HMIWI any gases that exhibit greater than 10 percent opacity (6 minute block average) or darker than 20 percent opacity for an aggregate of more than 30 seconds in any consecutive 60 minutes.

**304** **LARGE HMIWI OPACITY:** A large HMIWI shall comply with the opacity requirements as specified in 40 CFR 60, Sections 60.52e(c), (d), and (e).

**305** **NIGHT BURNING:** No person shall operate a medical waste incinerator between sunset and the following sunrise unless a continuous opacity (particulate) recorder is operating at all times when there is any combustion within the incinerator. Such recorder shall be in compliance with Section 501.1 of this rule.

**306** **INCORPORATION BY REFERENCE:** All CFR references as of July 1, 2009 that are listed below and in various sections of this rule are adopted and incorporated by reference. These adoptions by reference include no future editions or amendments. Copies of these CFR



references are available at the Maricopa County Air Quality Department, 1001 N. Central Ave., Phoenix, AZ, 85004, or by calling (602) 506-0169 for information.

- 40 CFR 60, Subpart Ee
- 40 CFR 60, Sections 60.52e(c), (d), and (e)
- 40 CFR 60, Section 60.56e
- 40 CFR 60, Section 60.57e
- 40 CFR 60, Sections 60.58e(b), (c), (d), (e), and (f)
- 40 CFR 60, Appendix A and Appendix B
- 40 CFR 70

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS**

**401 COMPLIANCE SCHEDULE:** On the effective date of an EPA approved operating permit program under Clean Air Act Title V and the implementing regulations under 40 CFR 70 in Arizona, whichever date is later, designated facilities subject to this rule shall operate pursuant to a permit issued under the EPA approved operating permit program.

**SECTION 500 – MONITORING AND RECORDS**

**501 PROVIDING AND MAINTAINING MONITORING DEVICES:** Except as provided in Section 502, all requirements for compliance and performance testing listed in 40 CFR 60.56e shall be required of each HMIWI, excluding the fugitive emissions testing requirements under Sections 60.56e(b)(12) and (c)(3).

- 501.1** Any person subject to Section 304 of this rule shall operate and maintain all of the following continuous data recording systems. All required systems shall be completely and properly operating during all periods of combustion within the incinerator, and each shall include a real time recording device that creates a clear, legible record at all times of operation.
- 501.2** Opacity of stack emissions or other indicator of particulate matter which is approved by the Control Officer. Pursuant to Section 305 of this rule, any incinerator burning after sunset must be equipped with a continuously recording opacity monitor, regardless of capacity. The opacity monitor shall be located after (downstream of) all control equipment, prior to the stack exit, and prior to any dilution with ambient air. The opacity monitor shall at all times comply with the EPA Performance Specification 1 (40 CFR 60, Appendix B) and shall be calibrated no less than once each day.

**502 RECORDKEEPING AND REPORTING:** Each HMIWI shall comply with the requirements listed in 40 CFR 60.58e(b), (c), (d), (e), and (f), excluding 40 CFR 60.58e(b)(2)(ii) (fugitive emissions) and (b)(7) (siting).

**503 HMIWI MONITORING REQUIREMENTS:** An existing HMIWI shall comply with the monitoring requirements of 40 CFR 60.57e.

**NOTICE OF PROPOSED RULEMAKING  
 MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS  
 REGULATION III – CONTROL OF AIR CONTAMINANTS  
 RULE 325: BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING**

[M17-222]

**PREAMBLE**

- |                  |  |   |
|------------------|--|---|
| <b><u>1.</u></b> | <b><u>Rule affected</u></b>  | <b><u>Rulemaking action</u></b>   |
|                  | Rule 325: Brick and Structural Clay Products (BSCP) Manufacturing  | Rescind   |
| <b><u>2.</u></b> | <b><u>Statutory authority for the rulemaking:</u></b>  |   |
|                  | Authorizing statutes: A.R.S. §§ 49-474, 49-479, and 49-480   |   |
|                  | Implementing Statute: A.R.S. § 49-112  |   |
| <b><u>3.</u></b> | <b><u>List of public notices addressing the rulemaking:</u></b>  |   |
|                  | Notice of Briefing to Maricopa County Manager: May 15, 2017  |   |
|                  | Notice of Stakeholder Workshop: June 15, 2017  |   |
| <b><u>4.</u></b> | <b><u>Name and address of department personnel with whom persons may communicate regarding the rulemaking:</u></b>   |   |
|                  | Name:  | Greg Verkamp or Hether Krause<br>Maricopa County Air Quality Department<br>Planning and Analysis Division   |
|                  | Address:   | 1001 N Central Avenue, Suite 125<br>Phoenix, AZ 85004   |
|                  | Telephone:   | (602) 506-6010  |
|                  | Fax:   | (602) 506-6179  |
|                  | Submit Comments At:  | <a href="http://maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94">http://maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94</a> |
| <b><u>5.</u></b> | <b><u>Explanation of the rule, including the department's reasons for initiating the rulemaking:</u></b>   |   |
|                  | The Maricopa County Air Quality Department (department) is proposing to rescind Rule 325 (Brick and Structural Clay Products (BSCP) Manufacturing). Rule 325 was originally adopted on August 10, 2005. The purpose of the rule is to limit particulate matter emissions from the use of tunnel kilns for curing in the brick and structural clay product (BSCP) manufacturing processes. Maricopa County currently has no sources subject to the rule and will unlikely have any sources in the future.   |   |
|                  | Rule 325 was adopted as a result of a revision made to the state implementation plan (SIP) for the Maricopa County PM <sub>10</sub> nonattainment area. The Maricopa County PM <sub>10</sub> nonattainment area was originally classified as moderate for PM <sub>10</sub> by the 1990 Clean Air Act Amendments. After the initial classification, Arizona was required to submit a revision to the SIP to demonstrate attainment of the PM <sub>10</sub> National Ambient Air Quality Standards (NAAQS) by December 31, 1994. The Maricopa County PM <sub>10</sub> nonattainment area failed to attain the NAAQS by the specified |   |



deadline; therefore, the U.S. Environmental Protection Agency (EPA) reclassified the area to a serious nonattainment area for PM<sub>10</sub> in 1996. Arizona was again required to submit a revision to the SIP to demonstrate attainment of the PM<sub>10</sub> NAAQS, this time by December 31, 2001. Attainment of the PM<sub>10</sub> NAAQS was again not demonstrated by the specified deadline and, as a result, Arizona was required to submit more revisions to the SIP.

One such revision was the Salt River SIP which the EPA required Arizona to submit to address continuing violations of the 24-hour PM<sub>10</sub> NAAQS at the Salt River air quality monitoring site in the late 1990s. The Salt River SIP included commitments to implement Best Available Control Measures (BACM)/Most Stringent Measures (MSM) for all significant sources of PM<sub>10</sub> in the Salt River Area. Within the Salt River Area there was one brick manufacturer, Phoenix Brick Yard, which at the time the Salt River SIP was being drafted, was not implementing BACM/MSM. As a result, Rule 325 was drafted and adopted to ensure Phoenix Brick Yard implemented BACM/MSM.

Phoenix Brick Yard ceased manufacturing operations in 2012 due to market conditions and production costs. Currently, there are no brick or structural clay product manufacturers in Maricopa County. The department does not anticipate any new brick or structural clay product manufacturers will locate to Maricopa County and is proposing to rescind Rule 325.

**6. Demonstration of compliance with A.R.S. §49-112:**

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following requirements are met:

1. The rule, ordinance or regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or regulation is either:
  - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
  - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or regulation does not exceed the reasonable costs of the county to issue and administer the permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The department is in compliance with A.R.S. §§ 49-112(A) and (B). The department is proposing to rescind Rule 325.

**7. Documents and/or studies referenced and/or reviewed for this rulemaking:**

Not applicable

**8. 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:**

Not applicable

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

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement under A.R.S. § 41-1055.

**An identification of the rulemaking.**

This rulemaking is proposing to rescind Rule 325 (Brick and Structural Clay Products (BSCP) Manufacturing).

**An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.**

This rulemaking is proposing to rescind Rule 325. There are currently no sources subject to Rule 325 in Maricopa County and the department does not anticipate any new sources will come to Maricopa County that would potentially be subject to Rule 325.

**A cost benefit analysis of the following:**

**(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on either the department or any other agency.

**(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any political subdivision of this state.



**(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any businesses.

**A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an impact on private and public employment for any businesses, agencies or political divisions.

**A statement of the probable impact of the rulemaking on small businesses.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any small businesses.

**(a) An identification of the small businesses subject to the rulemaking.**

There are no small businesses subject to Rule 325.

**(b) The administrative and other costs required for compliance with the rulemaking.**

This rulemaking is proposing to rescind Rule 325; there are no costs required for compliance. There are no sources subject to Rule 325.

**(c) A description of the methods that the agency may use to reduce the impact on small businesses.**

**(i) Establishing less costly compliance requirements in the rulemaking for small businesses.**

This rulemaking is proposing to rescind Rule 325 and there are no compliance costs required for small businesses.

**(ii) Establishing less costly schedules or less stringent deadlines for compliance in the rulemaking.**

This rulemaking is proposing to rescind Rule 325 and there are no compliance costs required for small businesses.

**(iii) Exempting small businesses from any or all requirements of the rulemaking.**

This rulemaking is proposing to rescind Rule 325 and there are no compliance costs required for small businesses.

**(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.**

This rulemaking does not impose any new compliance burdens on regulated entities that are permitted or introduce additional regulatory requirements and will not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated. As such, there are no costs to pass through to consumers, which means there are no impacts on consumers.

**A statement of the probable effect on state revenues.**

The rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

**A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.**

This rulemaking is proposing to rescind Rule 325 and there are no compliance costs associated with the rulemaking.

**10. Name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact:**

Name: Greg Verkamp or Hether Krause  
Maricopa County Air Quality Department  
Planning and Analysis Division  
Address: 1001 N Central Avenue, Suite 125  
Phoenix, AZ 85004  
Telephone: (602) 506-6010  
Fax: (602) 506-6179

Submit Comments At: <http://maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

**11. Time, place, and nature of the proceedings for the rulemaking:**

Written oral proceeding requests or written comments or both will be accepted until the record is closed on September 18, 2017, 5:00 p.m. Written oral proceeding requests or written comments or both may be submitted to the department (see Item #4 of this notice). An oral proceeding will be scheduled only upon receipt of a written request before the record is closed on September 18, 2017, 5:00 p.m. Written comments received during the comment period and before the record is closed on September 18, 2017, 5:00 p.m. will be considered formal comments to the Notice of Proposed Rulemaking and will be responded to in the Notice of Final Rulemaking.

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

Not applicable

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

Not applicable

**14. Full text of the rule follows:**



REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 325
BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING
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Adopted 08/10/05

MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 325

BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING

SECTION 100 – GENERAL

- 101 PURPOSE: To limit particulate matter emissions from the use of tunnel kilns for curing in the brick and structural clay product (BSCP) manufacturing processes.
102 APPLICABILITY: This rule applies to any existing, new or reconstructed tunnel kiln, used in the commercial and industrial brick and structural clay product manufacturing processes.
103 EXEMPTIONS: Existing, new or reconstructed tunnel kilns that are used exclusively for research and development and are not used to manufacture products for commercial sale are not subject to this rule.

SECTION 200 – DEFINITIONS: See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definitions shall apply:

- 201 BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING FACILITY – A site that manufactures brick including, but not limited to: face brick, structural brick and brick pavers; claypipe; roof tile; extruded floor and wall tile; and/or other extruded, dimensional, clay products.
202 CONTINUOUS KILN – A heated chamber that heats dense loads uniformly and efficiently, and can be used without interruption for high volume production.
203 EXISTING KILN – A kiln that is in operation before the date of adoption of this rule.
204 KILN FEED – All materials except fuel entering the tunnel kiln, including raw feed and recycle dust, measured on a dry basis.
205 PERIODIC KILN – A kiln that operates on an intermittent basis to heat wares, holding them at a uniform peak temperature and cool the wares.
206 RESEARCH AND DEVELOPMENT TUNNEL KILN – Any tunnel kiln whose purpose is to conduct research and development for new processes and products and is not engaged in the manufacture of commercial products for sale.
207 TUNNEL KILN – Any continuous kiln that is used to fire brick and structural clay products.



**SECTION 300—STANDARDS**

- 301** ~~OPACITY LIMITATIONS FOR ALL TUNNEL KILNS SUBJECT TO THIS RULE:~~ No person shall discharge into the ambient air from any single source of emissions any air contaminant, other than uncombined water, in excess of 20% opacity.
- 302** ~~LIMITATIONS FOR EXISTING TUNNEL KILNS AT BRICK OR STRUCTURAL PRODUCT (BSCP) MANUFACTURING FACILITIES:~~
  - 302.1** ~~No owner or operator shall emit more than 0.42 lbs. of particulate matter per ton of fired product from a tunnel kiln with a capacity of  $\geq 1$  tons per hour throughput.~~
- 303** ~~LIMITATIONS FOR NEW OR RECONSTRUCTED TUNNEL KILNS AT BRICK OR STRUCTURAL PRODUCT (BSCP) MANUFACTURING FACILITIES:~~
  - 303.1** ~~No owner or operator shall emit more than 0.42 lbs. of particulate matter per ton of fired product from a tunnel kiln with a capacity of  $< 10$  tons per hour throughput.~~
  - 303.2** ~~No owner or operator shall emit more than 0.12 lbs. of particulate matter per ton of fired product from a tunnel kiln with a capacity of  $\geq 10$  tons per hour throughput.~~

**SECTION 400—ADMINISTRATIVE REQUIREMENTS**

- 401** ~~COMPLIANCE SCHEDULE:~~ Any owner or operator of a tunnel kiln subject to this rule shall meet the following milestones:
  - 401.1** ~~Submit a compliance plan, by December 31, 2005, to the Control Officer for approval which describes the method(s) used to achieve full compliance with the rule. This plan shall specify dates for completing increments of progress, such as the contractual arrival date of new control equipment. The Control Officer may require an owner or operator submitting the compliance plan to also submit subsequent reports on progress in achieving compliance; and~~
  - 401.2** ~~Attain full compliance with all of the standards in this rule by December 31, 2006.~~

**SECTION 500—MONITORING AND RECORDS**

- 501** ~~COMPLIANCE DETERMINATION:~~ Compliance shall be demonstrated as follows:
  - 501.1** ~~Compliance with Section 301 shall be demonstrated by performance of Method 9 listed in Section 503.1; and~~
  - 501.2** ~~Compliance with Sections 302 and 303 shall be demonstrated by performance of the test methods listed in Section 503.2 and 503.3.~~
- 502** ~~RECORDKEEPING / RECORDS RETENTION:~~ The owner or operator of any kiln subject to this rule shall comply with the following requirements and keep records for a period of 5 years:
  - 502.1** ~~Daily records of kiln feed fired and hours of operation; and~~
  - 502.2** ~~Monthly records of material delivered to the site for processing in the tunnel kiln and the amount of product produced reported in tons.~~
- 503** ~~TEST METHODS:~~ The Environmental Protection Agency (EPA) test methods as they exist in the Code of Federal Regulations (CFR) (July 1, 2004), as listed below, are adopted by reference. These adoptions by reference include no future editions or amendments. Copies of test methods referenced in this section of this rule are available at the Maricopa County Air Quality Department, 1001 North Central Avenue, Suite 695, Phoenix, Arizona, 85004.
  - 503.1** ~~EPA Reference Method 9 (“Visual Determination of the Opacity of Emissions from Stationary Sources”), (40 CFR 60, Appendix A).~~
  - 503.2** ~~EPA Reference Method 5 (“Determination of Particulate Emissions from Stationary Sources”), (40 CFR 60, Appendix A).~~
  - 503.3** ~~EPA Reference Method 202 (“Determination of Condensable Particulate Emissions from Stationary Sources”), (40 CFR 51, Appendix M).~~

**NOTICE OF PROPOSED RULEMAKING  
 MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS  
 REGULATION III – CONTROL OF AIR CONTAMINANTS  
 RULE 334: RUBBER SPORTS BALL MANUFACTURING**

[M17-223]

**PREAMBLE**

- |                  |  |                                 |
|------------------|--|---------------------------------|
| <b><u>1.</u></b> | <b><u>Rule affected</u></b>  | <b><u>Rulemaking action</u></b> |
|                  | Rule 334: Rubber Sports Ball Manufacturing   | Rescind                         |
| <b><u>2.</u></b> | <b><u>Statutory authority for the rulemaking:</u></b>  |                                 |
|                  | Authorizing statutes: A.R.S. §§ 49-474, 49-479, and 49-480<br>Implementing Statute: A.R.S. § 49-112                |                                 |
| <b><u>3.</u></b> | <b><u>List of public notices addressing the rulemaking:</u></b>  |                                 |
|                  | Notice of Briefing to Maricopa County Manager: May 15, 2017<br>Notice of Stakeholder Workshop: June 15, 2017       |                                 |
| <b><u>4.</u></b> | <b><u>Name and address of department personnel with whom persons may communicate regarding the rulemaking:</u></b> |                                 |
|                  | Name: Greg Verkamp or Hether Krause<br>Maricopa County Air Quality Department<br>Planning and Analysis Division    |                                 |
|                  | Address: 1001 N Central Avenue, Suite 125<br>Phoenix, AZ 85004   |                                 |
|                  | Telephone: (602) 506-6010  |                                 |



Fax: (602) 506-6179

Submit Comments At: <http://maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

**5. Explanation of the rule, including the department's reasons for initiating the rulemaking:**

The Maricopa County Air Quality Department (department) is proposing to rescind Rule 334 (Rubber Sports Ball Manufacturing). Rule 334 was originally adopted on August 2, 1993. The purpose of the rule is to limit emissions of volatile organic compounds (VOCs) from natural and synthetic rubber adhesives used in the manufacture of non-inflatable rubber balls. Maricopa County currently has no sources subject to the rule and will unlikely have any sources in the future.

Rule 334 was adopted as a result of the 1990 Clean Air Act Amendments (CAAA) which required ozone nonattainment areas such as Maricopa County to fix their deficient reasonably available control technology (RACT) rules for ozone. Also known as the RACT "Fix-up", Section 182 (a)(2)(A) of the 1990 CAAA required ozone nonattainment areas classified as marginal or above to adopt and correct RACT rules as previously requested by the U.S. Environmental Protection Agency (EPA) before the Clean Air Act was amended in 1990. The RACT Fix-up included the adoption of rules for sources emitting over 100 tons of VOCs per year for which a Control Techniques Guidelines (CTG) had not been issued. At the time the 1990 CAAA were enacted, Maricopa County had one rubber sports ball manufacturer that was emitting over 100 tons of VOCs per year, Penn Racquet Sports. There was no rule for rubber sports ball manufacturing, so the department adopted Rule 334.

Penn Racquet Sports, later acquired by Head Racquet Sports, ceased manufacturing operations in 2009 and moved their operations to the Far East. There have not been any other rubber sports ball manufacturers in Maricopa County since that time. Due to the uniqueness of this type of manufacturing and the lower costs of labor and raw materials in the Far East, the department does not anticipate any new rubber sports ball manufacturers will locate to Maricopa County and is proposing to rescind Rule 334.

**6. Demonstration of compliance with A.R.S. §49-112:**

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following requirements are met:

1. The rule, ordinance or regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or regulation is either:
  - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
  - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or regulation does not exceed the reasonable costs of the county to issue and administer the permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The department is in compliance with A.R.S. §§ 49-112(A) and (B). The department is proposing to rescind Rule 334.

**7. Documents and/or studies referenced and/or reviewed for this rulemaking:**

Not applicable

**8. 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:**

Not applicable

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

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement under A.R.S. § 41-1055.

**An identification of the rulemaking.**

This rulemaking is proposing to rescind Rule 334 (Rubber Sports Ball Manufacturing).

**An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.**

This rulemaking is proposing to rescind Rule 334. There are currently no sources subject to Rule 334 in Maricopa County and the department does not anticipate any new sources will come to Maricopa County that would potentially be subject to Rule 334.

**A cost benefit analysis of the following:**

- (a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.**



Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on either the department or any other agency.

**(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any political subdivision of this state.

**(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any businesses.

**A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an impact on private and public employment for any businesses, agencies or political divisions.

**A statement of the probable impact of the rulemaking on small businesses.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any small businesses.

**(a) An identification of the small businesses subject to the rulemaking.**

There are no small businesses subject to Rule 334.

**(b) The administrative and other costs required for compliance with the rulemaking.**

This rulemaking is proposing to rescind Rule 334; there are no costs required for compliance. There are no sources subject to Rule 334.

**(c) A description of the methods that the agency may use to reduce the impact on small businesses.**

**(i) Establishing less costly compliance requirements in the rulemaking for small businesses.**

This rulemaking is proposing to rescind Rule 334 and there are no compliance costs required for small businesses.

**(ii) Establishing less costly schedules or less stringent deadlines for compliance in the rulemaking.**

This rulemaking is proposing to rescind Rule 334 and there are no compliance costs required for small businesses.

**(iii) Exempting small businesses from any or all requirements of the rulemaking.**

This rulemaking is proposing to rescind Rule 334 and there are no compliance costs required for small businesses.

**(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.**

This rulemaking does not impose any new compliance burdens on regulated entities that are permitted or introduce additional regulatory requirements and will not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated. As such, there are no costs to pass through to consumers, which means there are no impacts on consumers.

**A statement of the probable effect on state revenues.**

The rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

**A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.**

This rulemaking is proposing to rescind Rule 334 and there are no compliance costs associated with this rulemaking.

**10. Name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact:**

Name: Greg Verkamp or Hether Krause  
Maricopa County Air Quality Department  
Planning and Analysis Division

Address: 1001 N Central Avenue, Suite 125  
Phoenix, AZ 85004

Telephone: (602) 506-6010

Fax: (602) 506-6179

Submit Comments At: <http://maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

**11. Time, place, and nature of the proceedings for the rulemaking:**

Written oral proceeding requests or written comments or both will be accepted until the record is closed on September 18, 2017, 5:00 p.m. Written oral proceeding requests or written comments or both may be submitted to the department (see Item #4 of this notice). An oral proceeding will be scheduled only upon receipt of a written request before the record is closed on September 18, 2017, 5:00 p.m. Written comments received during the comment period and before the record is closed on September 18, 2017, 5:00 p.m. will be considered formal comments to the Notice of Proposed Rulemaking and will be responded to in the Notice of Final Rulemaking.

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

Not applicable

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



14. Not applicable  
Full text of the rule follows:

REGULATION III—CONTROL OF AIR CONTAMINANTS  
RULE 334  
RUBBER SPORTS BALL MANUFACTURING  
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Adopted 08/02/93  
Revised 09/20/94  
Revised 06/19/96  
Revised 09/25/13

MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS  
REGULATION III—CONTROL OF AIR CONTAMINANTS  
RULE 334  
RUBBER SPORTS BALL MANUFACTURING

- SECTION 100—GENERAL
  - 101 **PURPOSE:** To limit emission of volatile organic compounds (VOCs) from natural and synthetic rubber adhesives used in the manufacture of non-inflatable rubber balls.
  - 102 **APPLICABILITY:** This rule applies to any rubber sports ball manufacturing facility with an aggregate emission to atmosphere after December 31, 1989, of 50.0 tons (45.35 Mg) or more of VOC in any year or 8333 pounds (3780 kg) or more of VOC in any month, emitted from handling, using and/or preparing rubber adhesives or their constituents.
- SECTION 200—DEFINITIONS: For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.
  - 201 **ADHESIVE:** An initially fluid material used to fasten or bond two surfaces together by using the intermolecular forces between adhesive and the bonded surface(s) as a principal mechanism effecting the bonding.
  - 202 **APPROVED EMISSION CONTROL SYSTEM:** A system for reducing emissions of organic compounds, consisting of collection and control devices which are approved in writing by the Control Officer and are designed and operated in accordance with good engineering practice.
  - 203 **DAY:** A period of 24 consecutive hours beginning at midnight.
  - 204 **PRODUCTION DAY:** Any day in which the total adhesive pumped into any and all adhesive application machines exceeds 100 gallons (379 liters).
  - 205 **RUBBER SPORTS BALL:** A hollow ball having natural and/or synthetic rubber as a principal ingredient, having no pressure adjustment valve, and intended for sports in which it is hit.
  - 206 **VAPOR PROCESSING DEVICE:** The portion of a VOC emission control system that recovers, destroys, or otherwise physically or chemically handles VOC vapor, delivered to it by a capture system, so that most or all of that VOC cannot be emitted to the atmosphere.
- SECTION 300—STANDARDS



- 301 **LIMITATION—ADHESIVES:** By May 31, 1995, no person shall use adhesives in the manufacture of rubber sports balls, including but not limited to tennis and racquet balls, except by:
  - 301.1 Using adhesive with a VOC content that does not exceed 2.4 pounds of VOC per gallon (288 g/l) as applied, less water and non-precursor compounds, as determined by EPA Method 24; or
  - 301.2 Using an Approved Emission Control System having an overall control efficiency, including capture and processing, of at least 81 percent by weight of VOC reduction for all adhesive application processes using adhesive containing over 2.4 pounds of VOC per gallon (288 g/l), as applied, less water and non-precursor compounds. The control efficiency of an adsorption and recovery system used as an Approved Emission Control System shall be determined using the mass balance formula in subsection 503.1.
- 302 **OPERATION AND MAINTENANCE (O&M) PLAN:**
  - 302.1 The owner or operator of an Approved Emission Control System used to meet the requirements of subsection 301.2 of this rule shall provide the Control Officer with an Operation and Maintenance (O&M) Plan. This O&M Plan shall specify:
    - a. Key system operating parameters, such as temperatures, pressures, fluid throughputs, and/or flow rates; the stack VOC concentration monitoring and adsorber sequencing equipment specifications and the set points contained in their programming; and any other critical processes necessary for proper operation and for determining compliance with this rule;
    - b. All essential maintenance procedures and their frequencies needed to maintain the Approved Emission Control System.
  - 302.2 An Approved Emission Control System must have the O&M Plan approved in writing by the Control Officer.
  - 302.3 **Time Frames for Changes:**
    - a. Changes involving reduction in the frequency or extent of a Control Officer approved O&M Procedure must have the written consent of the Control Officer prior to being implemented.
    - b. **Other changes:** An updated O&M Plan must be submitted to the Control Officer for review within 10 days of any changes not involving reduction in frequency or extent of an approved O&M procedure. Within five working days of a written disapproval of such changes, either the original O&M Plan shall be reinstated or an alternative, negotiated with the affected facility and approved in writing by the Control Officer, shall be instituted.
- 303 **MAINTENANCE:** Any person subject to this rule shall operate and maintain in proper working order when in use all process equipment in which VOC containing materials are used.
- 304 **STORAGE AND DISPOSAL OF VOC:** Any person subject to this rule shall store all VOC containing materials subject to evaporation, including waste adhesive and waste solvent in containers, each of which is legibly labeled with its contents. The presence of content labels that are required by federal hazardous waste or occupational safety statutes (RCRA or OSHA) will meet this requirement. These containers shall be covered when not in use or, alternatively, they shall be placed beneath a hood ducted to or within an enclosure ducted to an operating Approved Emission Control System until solidified throughout. Such person shall keep records of disposal of VOC containing materials in accordance with applicable federal, state, and local hazardous waste disposal statutes and rules.
- 305 **EXEMPTIONS:**
  - 305.1 Facilities which after December 31, 1989, always emit less than 50 tons (45.4 Mg) per year and less than 8333 pounds (3780 kg) per month of VOC from adhesives used in the manufacture of rubber sports balls are exempt from this rule, except that those facilities which have the potential to annually emit or which do annually emit more than 25 tons (22.7 Mg) of VOC from such adhesives after December 31, 1989, must keep records in accordance with Section 500.
  - 305.2 **Applicability of other Rules:**
    - a. Facilities exempted from the provisions of this rule pursuant to Section 102 are not exempted from other provisions in other rules of the Maricopa County Air Pollution Control Regulation III.
    - b. Rules 330 and 336 shall not apply to a facility subject to the standards of this rule.

**SECTION 400—ADMINISTRATIVE REQUIREMENTS**

- 401 **COMPLIANCE SCHEDULE:** An owner or operator who chooses to meet the requirements of Section 301 by use of an Approved Emission Control System must be in full compliance with all applicable requirements by May 31, 1995. Any owner or operator of an emission control system used to meet the requirements of subsection 301.2 of this rule shall provide the Control Officer with:
  - 401.1 An Operation and Maintenance (O&M) Plan for this system by May 31, 1995.
  - 401.2 A compliance plan by December 1, 1994, listing the dates of completion of increments of progress toward meeting the requirements of subsection 301.2.

**SECTION 500—MONITORING AND RECORDS**

- 501 **PROVIDING AND MAINTAINING MONITORING DEVICES:** Any person operating an Approved Emission Control System pursuant to this rule shall provide, properly install and maintain in calibration, in good working order and in operation, devices described in an approved O&M Plan for indicating temperatures, pressures, fluid throughputs, rates of flow, and/or other operating conditions necessary to determine if air pollution control equipment is functioning properly and is properly maintained.



- 502 RECORDKEEPING AND REPORTING:** Any person subject to this rule shall comply with the following requirements. Records shall be retained for five years and shall be made available to the Control Officer upon request.
- 502.1 Current List:** Maintain a current list of adhesives including their formulations as applied, makeup solvents, and any other VOC containing materials. State the VOC content of each in pounds per gallon or grams per liter.
- 502.2 Usage Records:** Maintain records according to the following schedule, which show the type and amount of each adhesive, makeup solvent, and any other VOC containing material.
- a. **Adhesives Solvents, and VOC Containing Materials:**
    - (1) Records shall be updated monthly showing the usage of the separate adhesives, solvents, and other VOC containing materials.
    - (2) Yearly update those materials known to be annually used in quantities less than 15 gallons (56 l) or to annually emit less than 75 lb (34 kg).
    - (3) **Deliveries:** At the time of each delivery of solvent, the amount received, tank designation and time shall be recorded in a log book.
  - b. **Measuring Instruments and Readings:**
    - (1) Readings for efficiency determination should be made during the same time period each day.
    - (2) If volume rather than mass (weight) measures are used as the basis for calculations, then compensate for temperature. A temperature compensating instrument may be used for this purpose. If two or more such instruments are used in a demonstration of compliance with this rule, log any difference(s) between their respective compensating factors with the temperature range(s) where difference occurs. Show adjustments for such differences when making mass balance calculations.
    - (3) Readings of all meters or other instruments measuring throughput on lines to or from such tanks shall be recorded daily with date and time.
    - (4) Each repair, adjustment, or resetting of flow meters or other instruments measuring cumulative throughput shall be logged with the date, time, purpose, and the reading before and after such an operation. The cumulative, totalizing, throughput readout of such an instrument shall have no resetting feature.

**503 COMPLIANCE DETERMINATION – TEST METHODS:** When more than one test method is permitted for a determination, an exceedance of the limits established in this rule determined by any of the applicable test methods constitutes a violation of this rule.

**503.1 Mass Balance Determinations – Self Monitoring of Compliance for a Facility Using Carbon Adsorption with Solvent Recovery as a Control Method:**

- a. **Daily recording:** Refer to Figure I of this rule for the location of the mass balance meters – MB, MV, and MR. By midday on the first workday following a completed production day, the following shall be determined for that completed production day and entered in a hardcopy form acceptable to the Control Officer:
  - (1) The individual readings given by each of the three mass balance meters at the designated meter reading time during the production day just completed;
  - (2) VOC throughputs via those three mass balance flow meters since both:
    - (a) the previous production day at the designated meter reading time; and
    - (b) since meter reading time on that production day which is nine production days prior to the most recently completed production day.
  - (3) Using the Recovery Formula in 503.1.b. and the logged values required by 503.1.a.(2)(a) above, determine the most recent one day recovery efficiency and record that in the same log. Using the values required by 503.1.a.(2)(b) in the previous paragraph, the 9 day rolling average shall also be calculated and recorded using the same recovery formula in 503.1.b.
- b. **Recovery formula:** Using the liquid/liquid mass balance method, the following ratio expresses the efficiency of the control system during the period of the 9 day rolling average and for other periods:

$$Recovery_{MR} = \frac{M_B}{M_V + M_R}$$

Where:  $M_B$  is the solvent throughput indicated by the meter immediately downstream of the buffer tank.

$M_V$  is the solvent throughput indicated by the meter on the output pipe of the virgin solvent tank.

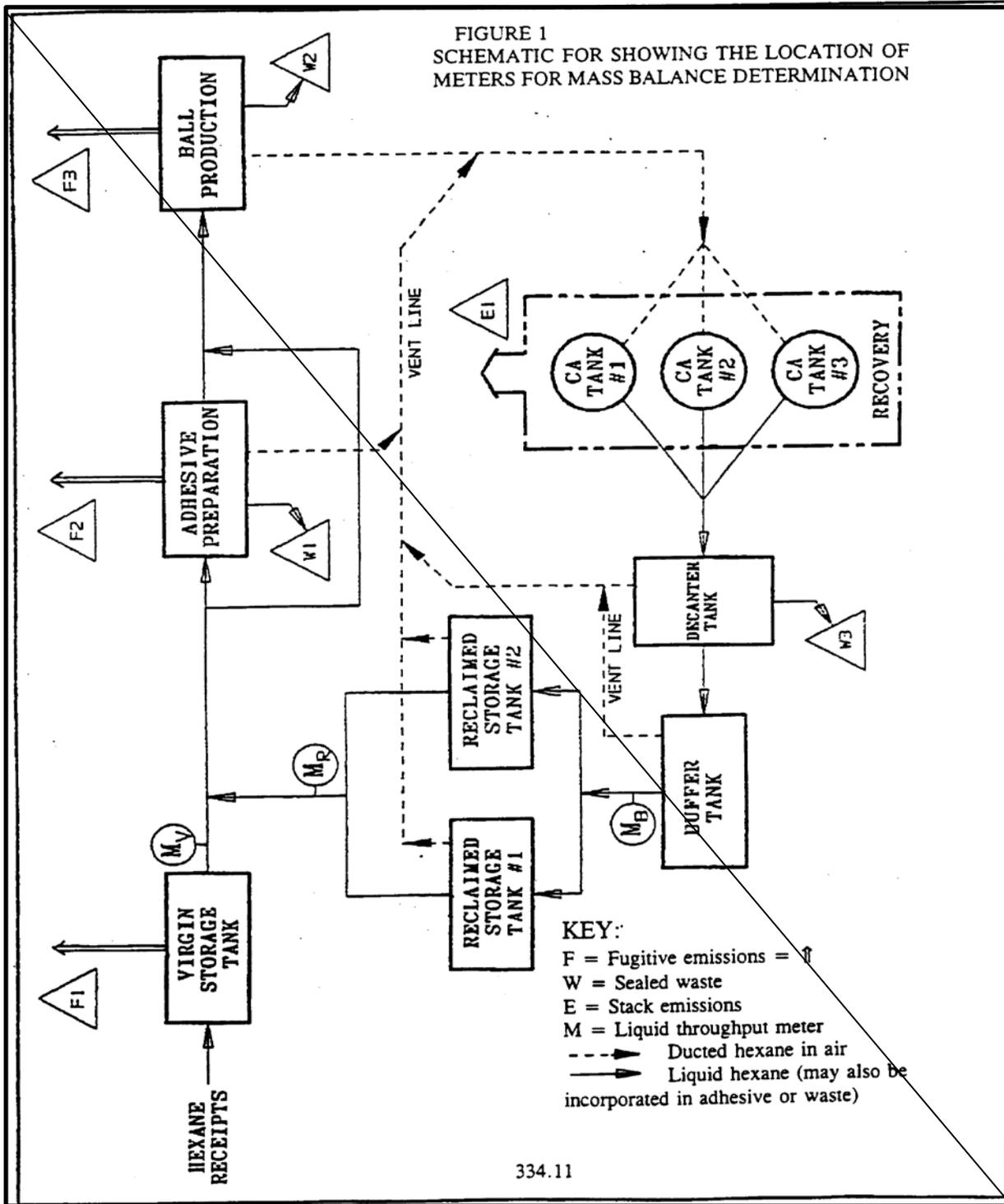
$M_R$  is the solvent throughput indicated by the meter downstream of the junction connecting the output lines from each recovered solvent storage tank.

- (1) **Adjustments for waste disposed of through statutorily prescribed procedures:** When the combined mass of all such waste is less than 0.5 percent of the total mass of solvent metered through meters MV and MR during the same 9 day rolling average period as the waste occurred, 95 percent of the mass of contaminated solvent and half the mass of any still fluid adhesive wasted may be subtracted from the denominator ( $M_V + M_R$ ) in the recovery formula when determining efficiency. Except as allowed by the procedure set forth in the next paragraph, no adjustment credit will be given for waste adhesive which is no longer fluid. A Method 24 Test determination of VOC content(s) referenced in subsection 503.2 shall be performed if the owner or operator of an affected facility requests adjustment for a larger quantity of fluid and/or non fluid waste(s). The request for adjustment and the results of the test shall be submitted to the Control Officer for approval.



- (2) **Total shut-downs and start-ups:** The production statistics for the last production day prior to a complete production shutdown of at least five consecutive days shall not be included in the 9-day rolling average of control efficiency, as long as no adhesive is made on the last production day. At a start-up after a total shutdown "day one" of a 9-day rolling average period begins at the standard meter reading time on the third production day since start-up.
- (3) **Non-production days:** On days during which a total of 100 gallons or less of adhesive enters adhesive application machines, the readings of meters "M<sub>S</sub>", "M<sub>V</sub>", and "M<sub>R</sub>" shall not be entered in the same log-sector as such readings made during actual production days, irrespective of whether adhesive was made on such days.

**503.2** The method of determining both the solids and the volatile content of adhesives, and of determining compliance of an adhesive with the VOC limit specified in subsection 301.1 shall be the EPA Reference Method 24 (40 CFR, Part 60, Appendix A). Method 24 shall also be used to determine the volatile and non-volatile content of waste adhesive with reference to subsection 503.1, b.(1).





NOTICE OF PROPOSED RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 339: VEGETABLE OIL EXTRACTION PROCESSES

[M17-224]

PREAMBLE

- 1. Rule affected: Rule 339: Vegetable Oil Extraction Processes; Rulemaking action: Rescind
2. Statutory authority for the rulemaking: Authorizing statutes: A.R.S. §§ 49-474, 49-479, and 49-480
3. List of public notices addressing the rulemaking: Notice of Briefing to Maricopa County Manager: May 15, 2017
4. Name and address of department personnel with whom persons may communicate regarding the rulemaking: Name: Greg Verkamp or Hether Krause
5. Explanation of the rule, including the department's reasons for initiating the rulemaking: The Maricopa County Air Quality Department (department) is proposing to rescind Rule 339 (Vegetable Oil Extraction Processes).
6. Demonstration of compliance with A.R.S. §49-112: Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.



When authorized by law, a county may adopt rules, ordinances or regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The department is in compliance with A.R.S. §§ 49-112(A) and (B). The department is proposing to rescind Rule 339.

**7. Documents and/or studies referenced and/or reviewed for this rulemaking:**

Not applicable

**8. 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:**

Not applicable

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

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement under A.R.S. § 41-1055.

**An identification of the rulemaking.**

This rulemaking is proposing to rescind Rule 339 (Vegetable Oil Extraction Processes).

**An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.**

This rulemaking is proposing to rescind Rule 339. There are currently no sources subject to Rule 339 in Maricopa County and the department does not anticipate any new sources will come to Maricopa County that would potentially be subject to Rule 339.

**A cost benefit analysis of the following:**

**(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on either the department or any other agency.

**(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any political subdivision of this state.

**(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any businesses.

**A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an impact on private and public employment for any businesses, agencies or political divisions.

**A statement of the probable impact of the rulemaking on small businesses.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any small businesses.

**(a) An identification of the small businesses subject to the rulemaking.**

There are no small businesses subject to Rule 339.

**(b) The administrative and other costs required for compliance with the rulemaking.**

This rulemaking is proposing to rescind Rule 339; there are no costs required for compliance. There are no sources subject to Rule 339.

**(c) A description of the methods that the agency may use to reduce the impact on small businesses.**

**(i) Establishing less costly compliance requirements in the rulemaking for small businesses.**

This rulemaking is proposing to rescind Rule 339 and there are no compliance costs required for small businesses.

**(ii) Establishing less costly schedules or less stringent deadlines for compliance in the rulemaking.**

This rulemaking is proposing to rescind Rule 339 and there are no compliance costs required for small businesses.

**(iii) Exempting small businesses from any or all requirements of the rulemaking.**

This rulemaking is proposing to rescind Rule 339 and there are no compliance costs required for small businesses.

**(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.**

This rulemaking does not impose any new compliance burdens on regulated entities that are permitted or introduce additional regulatory requirements and will not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated. As such, there are no costs to pass through to consumers, which means there are no impacts on consumers.

**A statement of the probable effect on state revenues.**



The rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

**A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.**

This rulemaking is proposing to rescind Rule 339 and there are no compliance costs associated with this rulemaking.

**10. Name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact:**

Name: Greg Verkamp or Hether Krause  
Maricopa County Air Quality Department  
Planning and Analysis Division  
Address: 1001 N Central Avenue, Suite 125  
Phoenix, AZ 85004  
Telephone: (602) 506-6010  
Fax: (602) 506-6179  
Submit Comments At: <http://maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

**11. Time, place, and nature of the proceedings for the rulemaking:**

Written oral proceeding requests or written comments or both will be accepted until the record is closed on September 18, 2017, 5:00 p.m. Written oral proceeding requests or written comments or both may be submitted to the department (see Item #4 of this notice). An oral proceeding will be scheduled only upon receipt of a written request before the record is closed on September 18, 2017, 5:00 p.m. Written comments received during the comment period and before the record is closed on September 18, 2017, 5:00 p.m. will be considered formal comments to the Notice of Proposed Rulemaking and will be responded to in the Notice of Final Rulemaking.

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

Not applicable

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

Not applicable

**14. Full text of the rule follows:**

**REGULATION III — CONTROL OF AIR CONTAMINANTS  
RULE 339  
VEGETABLE OIL EXTRACTION PROCESSES  
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- 102 APPLICABILITY

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- 212 VEGETABLE OIL PLANT

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- 302 EXTRACTORS AND DESOLVENTIZER TOASTERS
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- 502 RECORDKEEPING AND REPORTING
- 503 RECORDS RETENTION
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Adopted 11/16/92  
Revised 09/25/13

**MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS  
REGULATION III — CONTROL OF AIR CONTAMINANTS  
RULE 339  
VEGETABLE OIL EXTRACTION PROCESSES**

**SECTION 100 — GENERAL**

- 101 PURPOSE:** To limit the emissions of volatile organic compounds (VOCs) from the extraction of vegetable oil using solvents.
- 102 APPLICABILITY:** This rule applies to any vegetable oil extraction facility which has emitted 600 pounds (272 kg) or more of VOC in a day or 100 tons (90.7 Mg) or more of VOC in a year, or which would emit at such levels in the absence of existing VOC control measures, or reasonably could be expected to emit at such levels at current or proposed production rates.

**SECTION 200 — DEFINITIONS:** For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.

- 201 APPROVED EMISSION CONTROL SYSTEM:** A system for reducing emissions of organic compounds, consisting of both collection and control devices which are approved in writing by the Control Officer and are designed and operated in accordance with good engineering practice.
- 202 CONVEYOR:** Any device which moves material from one location to another location.
- 203 COOLER:** A device which reduces the temperature and/or moisture from meal being processed.
- 204 DESOLVENTIZER TOASTER (D-T):** A heated process unit in which air and/or steam are applied to solvated vegetable matter to volatilize the extraction solvent.
- 205 EQUIPMENT IN SOLVENT SERVICE:** Any pump, valve, pressure relief valve, sight glass, sample connection, open-ended valve, connector, or other component which handles extraction solvent or material containing such solvent.
- 206 EXTRACTOR:** Equipment which removes vegetable oil from vegetable material through the use of solvent.
- 207 LEAK:** Any dripping or indication of dripping of liquid from equipment in solvent service, or an emission of gaseous VOC which exceeds 10,000 ppm (expressed as methane) above background when measurements are made using EPA Method 21.
- 208 MEAL:** Pulverized vegetable matter from which oil has been extracted and which might still contain some extraction solvent.
- 209 MINERAL OIL SCRUBBER:** A packed tower which uses mineral oil as a sorbent for the extraction solvent.
- 210 SOLVENT:** The extraction medium used to extract oil from seeds, beans or other vegetable matter.
- 211 SOLVENT EXTRACTION:** Removal of vegetable oil from vegetable matter using a liquid solvent in a contact system to dissolve and suspend the oil.
- 212 VEGETABLE OIL PLANT:** Any facility or section of a facility engaged in the extraction or refining of vegetable oil through the use of solvent.

**SECTION 300 — STANDARDS**

- 301 LIMITATION — VOC EMISSIONS:** No person shall operate a vegetable oil extraction plant or facility unless the emissions do not exceed either of the following:
  - 301.1** 2.5 pounds of VOC per ton of processed seed (1.13 kg/Mg) for any 30 consecutive days of operation; and
  - 301.2** 3.0 pounds of VOC per ton of processed seed (1.36 kg/Mg) for any seven consecutive days of operation.
- 302 EXTRACTORS AND DESOLVENTIZER TOASTERS:** No person shall operate any extractor or desolventizer toaster unless VOC emissions are controlled by both a condenser and a mineral oil scrubber. Such scrubber shall have an overall VOC control efficiency (capture with processing) of at least 90 percent by weight.
- 303 DESOLVENTIZER TOASTER CONVEYOR:** No person shall operate a vegetable oil plant unless the desolventizer toaster discharge conveyor is vented to a mineral oil scrubber having an overall VOC control efficiency (capture with processing) of at least 90 percent by weight.
- 304 OPERATION AND MAINTENANCE PLAN:** Owners or operators shall provide the Control Officer with an Operation and Maintenance (O&M) Plan. This Plan shall specify key system operating parameters, such as temperatures, pressures and/or flow rates, necessary to determine compliance with this rule and describe in detail procedures to maintain the Approved Emission Control System. The Control Officer's written approval of this plan shall be required for compliance with this rule to be achieved.
- 305 EQUIPMENT IN SOLVENT SERVICE:** The owner or operator of a vegetable oil extraction plant shall inspect at least once a month all equipment in solvent service for any indication of VOC leakage in accordance with EPA Method 21. If the detected gaseous leakage level exceeds 10,000 ppm (expressed as methane) or if leak(s) are visible, the leak shall be tagged with a weatherproof tag. The date and time of the leak's discovery shall be recorded in a permanent logbook. The operator shall attempt to repair such leak(s) as soon as possible. The operator shall notify the Control Officer by the Division's next working day of leak(s) which cannot be fixed within 24 hours of discovery. No leak shall remain unrepaired by the end of any plant shutdown.
- 306 EXEMPTIONS:** In determining compliance with subsection 301.2 of this rule, the Division shall exclude from calculations a startup day and the VOC added on that day, subsequent to purging the extractor and/or the refinery of all solvent.

**SECTION 400 — ADMINISTRATIVE REQUIREMENTS**

- 401 COMPLIANCE SCHEDULE:** By February 14, 1993, any person subject to Section 301, 302, or 303, who does not comply with all provisions of said section(s) shall submit to the Control Officer for approval an emission control plan describing the



method to be used to achieve full compliance by November 15, 1993. The plan shall specify dates for completing increments of progress, such as the contractual arrival date of new control equipment. The Control Officer may require a person submitting such emission control plan to submit subsequent reports on progress in achieving compliance.

**SECTION 500 MONITORING AND RECORDS**

- 501 PROVIDING AND MAINTAINING MONITORING DEVICES:** Any person sorbing or otherwise processing VOC emissions to reduce them pursuant to this rule, shall provide, properly install and maintain in calibration, in good working order and in operation, devices described in an approved O&M Plan for indicating temperatures, pressures, rates of flow, or other operating conditions necessary to determine if air pollution control equipment is functioning properly and is properly maintained.
- 502 RECORDKEEPING AND REPORTING:** Any person subject to this rule shall comply with the following requirements. Any records and lists required by this section shall be kept in a consistent and complete manner.
  - 502.1 Material Usage:** Maintain a current list of solvents, mineral oil and any other VOC containing materials such as paints and cleaning liquids which annually exceed 20 gallons and state the VOC content of each in pounds per gallon or grams per liter. Daily record the amount of makeup solvent, the tons of vegetable matter subject to extraction, the amount of vegetable oil produced, and amount of mineral oil added.
  - 502.2 Operation and Maintenance:** Maintain a record of the times an Approved Emission Control Device is used to comply with this rule. Maintain daily records of the O&M Plan's key system operating parameters. Maintain records of all maintenance performed according to the O&M Plan.
  - 502.3 Calculations:** By the end of each day shift, calculate both the seven day and the thirty day rolling averages yielding daily VOC consumption figures, using data gathered up to and including the previous shift.
  - 502.4 Logbook:** A permanent logbook shall be kept of dates, times, and locations of all leak detection activities, leaks found, leaks repaired, shutdowns and startups. During operating hours the logbook, as well as entries required under the preceding subsections 502.1, 502.2 and 502.3, shall immediately be made available to the Control Officer upon request.
- 503 RECORDS RETENTION:** Copies of reports and supporting documentation required by the Control Officer shall be retained at least three years after the date of submittal. Records and information required by this rule shall be retained for at least three years.
- 504 COMPLIANCE DETERMINATION TEST METHODS:** An exceedance of the limits established in the rule determined by any of the applicable test methods constitutes a violation of this rule.
  - 504.1** Control efficiency of an emissions control device shall be determined according to EPA Reference Method 25 or its applicable submethods, Title 40, CFR Part 60, Appendix A.
  - 504.2** Gaseous leaks shall be tested for using EPA Method 21.

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**REGISTER INDEXES**

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The *Register* is published by volume in a calendar year (See “General Information” in the front of each issue for more information).

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Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**

PN = Proposed new Section  
PM = Proposed amended Section  
PR = Proposed repealed Section  
P# = Proposed renumbered Section

**SUPPLEMENTAL PROPOSED RULEMAKING**

SPN = Supplemental proposed new Section  
SPM = Supplemental proposed amended Section  
SPR = Supplemental proposed repealed Section  
SP# = Supplemental proposed renumbered Section

**FINAL RULEMAKING**

FN = Final new Section  
FM = Final amended Section  
FR = Final repealed Section  
F# = Final renumbered Section

**SUMMARY RULEMAKING****PROPOSED SUMMARY**

PSMN = Proposed Summary new Section  
PSMM = Proposed Summary amended Section  
PSMR = Proposed Summary repealed Section  
PSM# = Proposed Summary renumbered Section

**FINAL SUMMARY**

FSMN = Final Summary new Section  
FSMM = Final Summary amended Section  
FSMR = Final Summary repealed Section  
FSM# = Final Summary renumbered Section

**EXPEDITED RULEMAKING****PROPOSED EXPEDITED**

PEN = Proposed Expedited new Section  
PEM = Proposed Expedited amended Section  
PER = Proposed Expedited repealed Section  
PE# = Proposed Expedited renumbered Section

**SUPPLEMENTAL EXPEDITED**

SPEN = Supplemental Proposed Expedited new Section  
SPEM = Supplemental Proposed Expedited amended Section  
SPER = Supplemental Proposed Expedited repealed Section  
SPE# = Supplemental Proposed Expedited renumbered Section

**FINAL EXPEDITED**

FEN = Final Expedited new Section  
FEM = Final Expedited amended Section  
FER = Final Expedited repealed Section  
FE# = Final Expedited renumbered Section

**EXEMPT RULEMAKING****EXEMPT PROPOSED**

PXN = Proposed Exempt new Section  
PXM = Proposed Exempt amended Section  
PXR = Proposed Exempt repealed Section  
PX# = Proposed Exempt renumbered Section

**EXEMPT SUPPLEMENTAL PROPOSED**

SPXN = Supplemental Proposed Exempt new Section  
SPXR = Supplemental Proposed Exempt repealed Section  
SPXM = Supplemental Proposed Exempt amended Section  
SPX# = Supplemental Proposed Exempt renumbered Section

**FINAL EXEMPT RULEMAKING**

FXN = Final Exempt new Section  
FXM = Final Exempt amended Section  
FXR = Final Exempt repealed Section  
FX# = Final Exempt renumbered Section

**EMERGENCY RULEMAKING**

EN = Emergency new Section  
EM = Emergency amended Section  
ER = Emergency repealed Section  
E# = Emergency renumbered Section  
EEXP = Emergency expired

**RECODIFICATION OF RULES**

RC = Recodified

**REJECTION OF RULES**

RJ = Rejected by the Attorney General

**TERMINATION OF RULES**

TN = Terminated proposed new Sections  
TM = Terminated proposed amended Section  
TR = Terminated proposed repealed Section  
T# = Terminated proposed renumbered Section

**RULE EXPIRATIONS**

EXP = Rules have expired  
*See also “emergency expired” under emergency rulemaking*

**CORRECTIONS**

C = Corrections to Published Rules

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RULES EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

Table with 12 columns: January, February, March, April, May, June. Each month has sub-columns for Date Filed and Effective Date. Rows list dates from 1/1 to 1/31 and corresponding effective dates.



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Date Filed	Effective Date										
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7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14	12/15	2/13
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15	12/16	2/14
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16	12/17	2/15
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17	12/18	2/16
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18	12/19	2/17
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19	12/20	2/18
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20	12/21	2/19
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21	12/22	2/20
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22	12/23	2/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23	12/24	2/22
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24	12/25	2/23
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25	12/26	2/24
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26	12/27	2/25
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27	12/28	2/26
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28	12/29	2/27
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29	12/30	2/28
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1



**REGISTER PUBLISHING DEADLINES**

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

<b>Deadline Date (paper only) Friday, 5:00 p.m.</b>	<b>Register Publication Date</b>	<b>Oral Proceeding may be scheduled on or after</b>
March 3, 2017	March 24, 2017	April 24, 2017
March 10, 2017	March 31, 2017	May 1, 2017
March 17, 2017	April 7, 2017	May 8, 2017
March 24, 2017	April 14, 2017	May 15, 2017
March 31, 2017	April 21, 2017	May 22, 2017
April 7, 2017	April 28, 2017	May 30, 2017
April 14, 2017	May 5, 2017	June 5, 2017
April 21, 2017	May 12, 2017	June 12, 2017
April 28, 2017	May 19, 2017	June 19, 2017
May 5, 2017	May 26, 2017	June 26, 2017
May 12, 2017	June 2, 2017	July 3, 2017
May 19, 2017	June 9, 2017	July 10, 2017
May 26, 2017	June 16, 2017	July 17, 2017
June 2, 2017	June 23, 2017	July, 24, 2017
June 9, 2017	June 30, 2017	July 31, 2017
June 16, 2017	July 7, 2017	August 7, 2017
June 23, 2017	July 14, 2014	August 14, 2017
June 30, 2017	July 21, 2017	August 21, 2017
July 7, 2017	July 28, 2017	August 28 2017
July 14, 2014	August 4, 2017	September 5, 2017
July 21, 2017	August 11, 2017	September 11, 2017
July 28, 2017	August 18, 2017	September 18, 2017
August 4, 2017	August 25, 2017	September 25, 2017
August 11, 2017	September 1, 2017	October 2, 2017
August 18, 2017	September 8, 2017	October 10, 2017
August 25, 2017	September 15, 2017	October 16, 2017
September 1, 2017	September 22, 2017	October 23, 2017
September 8, 2017	September 29, 2017	October 30, 2017
September 15, 2017	October 6, 2017	November 6, 2017
September 22, 2017	October 13, 2017	November 13, 2017



### GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor's Regulatory Review Council. Council meetings and Register deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by 5 p.m. of the deadline date. The Council's office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit [www.grrc.state.az.us](http://www.grrc.state.az.us).

### GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES FOR 2017

[M16-300]

DEADLINE FOR PLACEMENT ON AGENDA	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
Tuesday November 22, 2016	Tuesday December 20, 2016	Wednesday December 28, 2016	Wednesday January 4, 2017
Tuesday December 27, 2016	Tuesday January 24, 2017	Tuesday January 31, 2017	Tuesday February 7, 2017
Tuesday January 24, 2017	Tuesday February 21, 2017	Tuesday February 28, 2017	Tuesday March 7, 2017
Tuesday February 21, 2017	Tuesday March 21, 2017	Tuesday March 28, 2017	Tuesday April 4, 2017
Tuesday March 21, 2017	Tuesday April 18, 2017	Tuesday April 25, 2017	Tuesday May 2, 2017
Tuesday April 25, 2017	Tuesday May 23, 2017	Wednesday May 31, 2017	Tuesday June 6, 2017
Tuesday May 23, 2017	Tuesday June 20, 2017	Tuesday June 27, 2017	Thursday July 6, 2017
Tuesday June 20, 2017	Tuesday July 18, 2017	Tuesday July 25, 2017	Tuesday August 1, 2017
Tuesday July 25, 2017	Tuesday August 22, 2017	Tuesday August 29, 2017	Wednesday September 6, 2017
Tuesday August 22, 2017	Tuesday September 19, 2017	Tuesday September 26, 2017	Tuesday October 3, 2017
Tuesday September 26, 2017	Tuesday October 24, 2017	Tuesday October 31, 2017	Tuesday November 7, 2017
Tuesday October 24, 2017	Tuesday November 21, 2017	Tuesday November 28, 2017	Tuesday December 5, 2017
Tuesday November 21, 2017	Tuesday December 19, 2017	Wednesday December 27, 2017	Wednesday January 3, 2018

\*Materials must be submitted by 5 P.M. on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.