



# Arizona Administrative REGISTER

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# 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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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.

# Arizona Administrative REGISTER

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**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.

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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.



**NOTICES OF FINAL RULEMAKING**

This section of the *Arizona Administrative Register* contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor’s Regulatory Review Council or the Attorney General’s Office. Certificates of Approval are on file with the Office.

text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the Arizona Administrative Code.

**NOTICE OF FINAL RULEMAKING  
TITLE 6. ECONOMIC SECURITY  
CHAPTER 1. DEPARTMENT OF ECONOMIC SECURITY**

[R18-79]

**PREAMBLE**

- |   |                                 |
|---|---------------------------------|
| <b>1. <u>Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
| R6-1-201  | Re-number                       |
| R6-1-201  | New Section                     |
| R6-1-201  | Amend                           |
| R6-1-202  | Re-number                       |
| R6-1-202  | Amend                           |
| R6-1-203  | Re-number                       |
| R6-1-203  | New Section                     |
| R6-1-203  | Amend                           |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. § 41-1954(A)(3)  
 Implementing statutes: A.R.S. §§ 5-575 and 42-1122
- 3. The effective date of the rules:**  
 June 19, 2018
- a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**  
 Not applicable
- b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**  
 Not applicable
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rulemaking:**  
 Notice of Rulemaking Docket Opening: 23 A.A.R. 2427, September 8, 2017  
 Notice of Proposed Rulemaking: 23 A.A.R. 2421, September 8, 2017
- 5. The agency’s contact person who can answer questions about the rulemaking:**  
 Name: Christian J. Eide  
 Address: Department of Economic Security  
 P.O. Box 6123, Mail Drop 1292  
 Phoenix, AZ 85005  
 or  
 Department of Economic Security  
 1789 W. Jefferson St., Mail Drop 1292  
 Phoenix, AZ 85007  
 Telephone: (602) 542-9199  
 Fax: (602) 542-6000  
 E-mail: [ceide@azdes.gov](mailto:ceide@azdes.gov)
- 6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**  
 The rules in Article 2 were last amended effective December 22, 1993. This rulemaking is in response to a Five-year Review Report, approved by the Governor’s Regulatory Review Council on February 4, 2014. This rulemaking will amend the rules



related to the request for review for debt setoff. It will also amend the rules associated with the review process. Language that is duplicative of statute will be removed without broadening the Department’s scope of review. Moreover, this rulemaking will update the references to A.R.S. §§ 5-575 and 42-1122.

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

The Department did not review or rely on any study relevant to the rules.

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:**

There is minimal economic, small business or consumer impact. The Department benefits by the dollars collected from the debtors. The general public will benefit from this rulemaking because it will eliminate confusion by reflecting the A.R.S. §§ 5-575 and 42-1122 statutory change from the previous statutes, A.R.S. §§ 5-525 and 42-133 respectively. This rulemaking will also simplify the language to improve the request for review process, and make the rules more clear, concise, and understandable. Small businesses are not impacted by the rules.

10. **A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

- The term “Request for review” was added to the definitions contained in R6-1-201.
- Language was added to R6-1-202(A), R6-1-202(B)(4), and R6-1-202(C)(2) to clarify the rules.
- Replaced existing language in the proposed rule with an internal reference for clarity in R6-1-203(D).
- The language in R6-1-203(F) will remain in rule to provide notice of the debtor’s appeal rights.
- Minor grammatical changes were also made.

The Department does not believe there are substantial changes under A.R.S. §41-1025.

11. **An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

The Department received no comments on this rulemaking.

12. **All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

No other matters are prescribed.

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:**

The rules do not require a permit.

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:**

Not applicable

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 was submitted.

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

None

14. **Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable

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

TITLE 6. ECONOMIC SECURITY  
CHAPTER 1. DEPARTMENT OF ECONOMIC SECURITY  
ARTICLE 2. DEBT SETOFF

Section

R6-1-201. Definitions

~~R6-1-201~~R6-1-202. Request for Review of Debt Setoff

~~R6-1-202~~R6-1-203. Departmental Review of Debt Setoff

ARTICLE 2. DEBT SETOFF

**R6-1-201. Definitions**

In this article, unless otherwise specified:

1. “Debtor” means a person indebted to the Department.
2. “Department” means the Department of Economic Security.



- 3. “Request for review” means a request for agency-level review filed with the Department pursuant to A.R.S. §§ 5-575(C) or 42-1122(H), but excludes claims made pursuant to A.R.S. § 42-1122(S).

**~~R6-1-201~~R6-1-202. Request for Review of Debt Setoff**

- A. A ~~person indebted to the Department of Economic Security (“the Department”); Debtor~~ who has had all or part of ~~the~~ their debt set off pursuant to A.R.S. §§ ~~5-525 (C) 5-575 or 42-133(E) 42-1122~~ may file a request ~~a~~for review of the setoff.
- B. ~~The To be considered by the Department, the~~ request for review shall:
  - 1. Be in writing;
  - 2. Be ~~filed with~~ received by the Department office ~~which that~~ set off the debt, at the address indicated on the notice of debt setoff (~~“the notice”~~); no later than 30 days after the ~~mailing~~ date of the notice of debt setoff;
  - 3. List any prior judicial or administrative proceedings regarding the debt;
  - 4. Set forth, with specificity, all reasons why the setoff is inaccurate or improper;
  - 5. Be signed by the ~~debtor Debtor~~ or the ~~debtor’s Debtor’s~~ authorized representative; and
  - 6. ~~Have~~ Include an attached complete copy of the notice of debt setoff from which review is sought.
- C. As used in this Section, the date of the notice of debt setoff shall be the following dates, as applicable to the ~~debtor Debtor~~:
  - 1. The date that the State Lottery Office gives the ~~debtor Debtor~~ a written statement of winnings indicating the amount of the setoff; or
  - 2. The mailing date of the written notice generated by the Department, advising the ~~debtor Debtor~~ of the setoff.
- D. Notwithstanding subsection (B), the Department may consider a timely request for review which does not include all the documentation listed in subsection (B) if:
  - 1. The ~~debtor Debtor~~ has good cause for failing to provide the information, and
  - 2. The lack of information does not substantially prejudice the Department’s ability to evaluate the request.

**~~R6-1-202~~R6-1-203. Departmental Review of Debt Setoff**

- A. The Director of the Department of Economic Security shall appoint representatives who shall conduct the review in accordance with A.R.S. §§ ~~5-525 5-575 or 42-133 42-1122~~, as applicable, and in a manner ~~which that~~ will observe the substantial rights of the ~~debtor Debtor~~.
- B. ~~The Department shall limit the scope of its review to the identity of the debtor and the amount of the debt setoff when the validity of the debt was established by judicial review in a court of competent jurisdiction, agency hearing, or final administrative decision made in accordance with the law. If it is found that the debt was not established in accordance with one of the foregoing methods listed in this subsection, the setoff action shall be stayed and remanded to the appropriate Department authority for resolution. Unless otherwise prohibited by law, the Department may correct clerical errors that have occurred in the administration of the debt setoff.~~
- C. In reviewing the debt setoff, the Department shall consider all relevant evidence, including, without limitation, evidence submitted by the ~~debtor Debtor~~ and the documents and records in the Department’s files.
- D. The Department ~~shall~~ may dispose of a request for review by:
  - 1. Dismissal, if the ~~debtor Debtor~~ fails to ~~state with specificity in the request for review why the debt does not exist or why the amount of debt is incorrect~~ comply with R6-1-202;
  - 2. Withdrawal, if the ~~debtor Debtor~~ withdraws the request for review in writing at any time before the Department issues a decision; or
  - 3. Decision.
- E. Every review decision shall be in writing and shall be mailed to the last known address of the ~~debtor Debtor~~ or the ~~debtor’s Debtor’s~~ authorized representative.
- F. The Department’s decision is final unless the debtor files a petition for judicial review with the Superior Court within 35 days of the date the decision is mailed to the debtor as provided in A.R.S. § 12-904. A debtor who files a petition for review shall mail a copy to the Department office which issued the decision.

**NOTICE OF FINAL RULEMAKING  
TITLE 6. ECONOMIC SECURITY  
CHAPTER 3. DEPARTMENT OF ECONOMIC SECURITY  
UNEMPLOYMENT INSURANCE**

[R18-78]

**PREAMBLE**

- |   |                                 |
|---|---------------------------------|
| <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
| R6-3-51140  | Amend                           |
| Article 52  | Amend                           |
| R6-3-5205   | Amend                           |
| R6-3-5240   | Amend                           |
| R6-3-52235  | Amend                           |
| R6-3-55460  | Amend                           |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. § 41-1954(A)(3)  
 Implementing statutes: A.R.S. §§ 23-771 and 23-773



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

June 19, 2018

**a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

Not applicable

**b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**

Not applicable

**4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rulemaking:**

Notice of Rulemaking Docket Opening: 22 A.A.R. 2084, August 12, 2016

Notice of Proposed Rulemaking: 23 A.A.R. 1627, June 16, 2017

Notice of Oral Proceeding on Proposed Rulemaking: 23 A.A.R. 2388, September 1, 2017

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Christian J. Eide  
Address: Department of Economic Security  
P.O. Box 6123, Mail Drop 1292  
Phoenix, AZ 85005  
or  
Department of Economic Security  
1789 W. Jefferson St., Mail Drop 1292  
Phoenix, AZ 85007  
Telephone: (602) 542-9199  
Fax: (602) 542-6000  
E-mail: [ceide@azdes.gov](mailto:ceide@azdes.gov)

**6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Unemployment Insurance rules contain requirements relating to misappropriation of funds and falsification of employment records; ability to and availability for work; attendance at school or training course; health or physical condition; and type of compensation. The Department front-line Deputies and the Administrative Law Judges rely on the rules as their primary authority. The rules require revision to reflect technology advancements and state and federal law revisions that have changed the employment environment. These changes have led to confusion on the part of claimants, employers, Deputies, and Administrative Law Judges. This rulemaking reflects statutory changes that will properly inform the parties of requirements relating to Unemployment Insurance.

These amendments will provide employers and claimants with knowledge of the actual processes used by the Department. This rulemaking will make the rules more clear, concise, and understandable.

R6-3-51140 currently fails to address theft and falsification of time and work records and property. This lack of clarity creates a burden on the adjudicatory process by making the Deputies and parties seek answers outside the rules. The amendments will create clarity, reducing time spent searching for the applicable regulations.

R6-3-5205 defines the terms "able to work" and "available to work" and to address able to work part time as provided by medical evidence that the restriction is due to a disability.

R6-3-5240 covers attendance at school and training courses. The amendment addresses the current state of education by recognizing some employees' ability to attend school or training courses while still being "available" in the job market.

R6-3-52235 includes provisions covering pregnant Unemployment Insurance claimants and their ability to work.

R6-3-55460 currently provides that severance pay is not considered a wage. The statutes were amended to state that severance pay is considered a wage. This amendment makes the rule consistent with the statutes.

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

The Department did not review or rely on any study relevant to the rules.

**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:**

The Department does not anticipate any significant changes to the overall economic impact of rules. The changes are minor and



add no requirements for participants; no additional costs of administration; and no need for additional equipment, supplies, or personnel. The changes will align the rules with current practice to clarify the process to stakeholders.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

- R6-3-51140 the word “Property” was added.
  - The language, “Able to work part time as provided by medical evidence that the restriction is due to a disability,” was added to R6-3-5205
  - “Online class” information was added to R6-3-5240
  - R6-3-51140, R6-3-5205, R6-3-5240, R6-3-52235 and R6-3-55460 were amended for clarity, style, format and language.
- The Department does not believe these are substantive changes under A.R.S. § 41-1025.

**11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

	COMMENT FROM COMMENTOR	DEPARTMENT RESPONSE:
1.	<p><b>Comment from Ellen Katz William E Morris Institute for Justice (WMIJ)</b></p> <p>In R6-3-51140, DES proposes to add “property” to the section on misappropriation. In Section A(2), DES acknowledges that the situation where the claimant honestly believes the claimant is entitled to the “funds” and makes adjustment or restitution upon notification, constitutes a discharge for reasons other than misconduct. The proposed rule has no such exception for property. Just as with funds, there may be situations where the claimant honestly believes she was entitled to the property and makes adjustment or restitution upon notification. These situations, like the situation of “funds,” should also be considered a discharge for reason other than misconduct . . . There is no reason to treat the situations differently.</p>	<p>The Department has added “property” to the Misappropriation section.</p>
2.	<p><b>Comment from Ellen Katz, William E Morris Institute for Justice (WMIJ) Rose Daly-Rooney, Legal Director Arizona Center for Disability Law (ACDL)</b></p> <p><b>Comments regarding R6-3-5205</b> Subsection 3, state as follows: 3. The term “work” means suitable work that is a recognized occupation for which the claimant is reasonably qualified and that the claimant does not have good cause to refuse. <b><u>For purposes of this regulation, good cause includes an employer’s refusal to provide reasonable accommodations that the claimant needs to perform the essential functions of the claimant’s job.</u></b> <i>From ACDL (emphasis in the original).</i></p> <p>R6-3-5205 concerns when a claimant is able and available to work. In subsection 6, DES inserts a section on disability. Subsection (a) should be modified to add after the word “disability” “with or without a reasonable accommodation.” Persons with disabilities are entitled to reasonable accommodations and those should be acknowledged in the rules. <i>From WMIJ.</i></p> <p><b>Subsection 7</b> to state: 7. The Department . . . If the claimant is not able or available for more than a full shift, the claimant is ineligible for benefits, <b><u>except as provided in subsection 6.</u></b> <i>From ACDL (emphasis in the original).</i></p> <p>In subsection 8, DES proposes that, if DES or the claimant’s union “tried to contact the claimant for possible referral” but “was unable to do so” (subsection c), or an employer “made an effort to contact the claimant for a job offer or interview” but “was unable to do so” (subsection d), the claimant may have “reduced or jeopardized” their employment opportunities. These sections are overly broad and vague. The Institute is concerned about what constitutes “unable to do so” in each situation and what constitutes “an effort” by an employer . . . At a minimum, DES should modify subsections 8 (c) and (d) to require both contacts to the correct telephone number, e-mail address, or proper alternative mode of communication and there should be proof of the actual receipt by the claimant and a good cause assessment of the reason that the claimant did not receive and/or respond to the contact. <i>From WMIJ.</i></p>	<p>In Subsection 3, good cause is determined during the fact finding process. Reasonable accommodation requirements are imposed on employers via the Americans with Disabilities Act and are not imposed via this Chapter of the Arizona Administration Code. The Department is a neutral party in determining eligibility. If the suggested language is added to the rule, the rule would be very restrictive in how the Department applies the rule and the rule may be interpreted to be in favor of the claimant.</p> <p>In Subsection 6, the Department declines to add “with or without reasonable accommodation” to the rule. Although, persons with a disability are entitled to reasonable accommodations, it is up to the employer to provide reasonable accommodations. During the fact finding process (obtaining information and evidence from both the employer and claimant), the Department must determine if the employer provided reasonable accommodations.</p> <p>The Department has added the following language to Subsection 6: “c. Able to work part time as provided by medical evidence that the restriction is due to a disability.”</p> <p>With regard to Subsection 7, see response regarding Subsection 6, above.</p> <p>In Subsection 8, the Department declines to add specific modes of communication to the rule because the Department makes all reasonable attempts to contact the claimant and employer to the address and phone number of record. In situations where the employer makes an effort to contact a claimant, the employers effort and claimant’s availability is determined during the fact finding process. While the Department can expect employers to make reasonable effort to contact prospective employees, the Department cannot advise employers on their business practices. Reasonable accommodation requirements are imposed on employers via the Americans with Disabilities Act and are not imposed via this Chapter of the Arizona Administrative Code.</p>



<p>3.</p>	<p><b>Comment from Ellen Katz, William E Morris Institute for Justice (WMIJ) Rose Daly-Rooney, Legal Director Arizona Center for Disability Law (ACDL)</b></p> <p><b>Comments regarding R6-3-52235</b></p> <p>Under <b>R6-3-52235</b>, DES addresses when a claimant is able and available for work.</p> <p><b>Subsection A</b>, defining Able to Work, should be modified to provide:</p> <p>1). A claimant is able to work if the claimant <del>possesses the physical and mental capabilities</del> <b><u>is able to perform the essential job functions with or without reasonable accommodation</u></b> that are necessary for the performance of suitable work for which the claimant meets the <b><u>minimum qualifications</u></b>.</p> <p>2). It includes any type of work for which the claimant is reasonably qualified and that the claimant can perform under normal conditions of employment <b><u>with or without reasonable accommodations</u></b>. A disability may entirely prevent a claimant from pursuing the claimant’s customary occupation and yet the claimant may retain sufficient physical and mental ability to perform some gainful work for which the claimant is reasonable qualified to perform <b><u>with or without reasonable accommodation</u></b>.</p> <p>3). “Able to work” does not include a claimant’s appearance or any other personal characteristic <b><u>or obvious disability</u></b> that might prejudice an employer against the claimant.  b) The claimant is capable of performing such work without <del>endangering the claimant, coworkers, the public, or the employer</del> posing a direct threat to self or others, <b><u>as that term is defined by the Americans with Disabilities Act</u></b>.</p> <p><b>Subsection C</b>, addressing communicable disease as it relates to able to work, should be changed to read:</p> <p>1.a) The claimant is willing to accept work in an occupation <b><u>or position</u></b> where the disease would not be a hazard <b><u>pose a direct threat</u></b>; or  b) The claimant is under medical treatment and a physician certifies that the disease <del>is in a non-communicable state</del> <b><u>does not pose a direct threat regarding the risk of transmission in the workplace</u></b>.</p> <p>2. Except that the claimant is not able to work until a physician certifies <b><u>or public health information confirms</u></b> that the claimant is able to work without <del>endangering others</del> <b><u>posing a direct threat of risk of transmission in the workplace</u></b> and:  a) The claimant’s physician states that the claimant should not work because <del>of the danger of infecting others</del> there is a <b><u>direct threat for the risk of transmission</u></b> in that workplace; or  b) <del>the law of the community prohibits the claimant’s employment because of the disease.</del> <b><u>An individualized assessment reveals that there is not a significant risk of substantial harm caused by transmission of the condition in the workplace</u></b>.</p> <p><b>Subsection D</b>, addressing seizures as it relates to “able to work”, should be changed to read:</p> <p>When a claimant is subject to periodic seizures or attacks that render the claimant unable to work during the seizure or attacks, the Department may consider the claimant able to work if during the intervals between seizures or attacks, the claimant is able to perform <del>work</del> <b><u>the essential job functions with or without reasonable accommodation for work for</u></b> which the claimant <del>is qualified</del> <b><u>meets the minimum requirements</u></b>.</p>	<p><b>DEPARTMENT RESPONSE:</b></p> <p>In Subsection (A), any reference to reasonable accommodations cannot be imposed by the Department to the employer.</p> <p>During the fact-finding process (obtaining information and evidence from both the employer and claimant), reasonable accommodation is verified with both the claimant and the employer.</p> <p>Adding “direct threat” and “regarding the risk of transmission in the workplace” does not change the meaning of Subsection (C). The Department declines to add the words “direct threat” or “regarding the risk of transmission in the workplace.”</p> <p>With regard to, Subsection (D), The Department declines to add the language suggested. Any reference to reasonable accommodations cannot be imposed by the Department to the employer.</p>
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<p>More specifically, the Department should broaden the examples used when referring to “attacks” or substitute a more general term, such as “episodic conditions” to refer to seizures and attacks. Common examples of conditions, other than epilepsy, that might result in brief periods when an individual may not be able to work followed by an ability to work, include post-traumatic stress disorder (due to intermittent flashbacks), multiple sclerosis, migraines, cancer (due to treatment), hypertension, diabetes, asthma, major depressive disorder, bipolar disorder, and schizophrenia. Each of these conditions would also likely be covered as a disability under the ADAAA [Americans with Disabilities Amendment Act of 2008]. <i>From ACDL (emphasis in the original).</i></p> <p>Section E. Pregnancy. In subsection 5, DES proposes that if a pregnant claimant restricts her availability to work to the listed restrictions of standing, lifting and travel, in addition to showing that the work for which she is qualified does not require those restrictions, she must also show in subsection (b) that there is a reasonable possibility of her obtaining work with the restrictions. If the claimant shows she is qualified for the work, the claimant should not have to show the reasonable possibility of obtaining such work. The Institute does not see another situation in the rules where the claimant is asked to meet this additional burden. This is a discriminatory requirement applied only to pregnant claimants and should be removed. <i>From WMLJ.</i></p> <p><b>Subsection E</b>, addressing pregnancy as it applies to “able to work”, should be substantially revised. The ACDL offers the following specific comments to support this recommendation. The section now states: “when a pregnant woman restricts her availability for employment to work that does not require her to stand, sit, lift heavy objects, or travel great distances, the Department may consider her able to work only if she shows that work for which she is reasonably qualified: A) Does not require these conditions; and B) There is a reasonable possibility of her obtaining work with those restrictions.” This subsection likely violates the ADAAA because it creates a greater burden on claimants who have a pregnancy-related disability to establish eligibility than workers with other disabilities. Additionally, this subsection does not account for employers’ obligations to provide reasonable accommodations to workers with pregnancy-related disabilities.</p> <p>... Under the proposed regulation, as it is written, a claimant with a pregnancy-related disability who has related restrictions in standing, lifting heavy objects, or travelling distances, has the burden of showing she can find work that does not impose these restrictions. However, covered employers must provide reasonable accommodations that would address these limitations when the claimant has a pregnancy-related disability. <i>From ACDL.</i></p>	<p>The Department has added “episodic condition” to the rule.</p> <p>The claimant’s ability/availability for work would only be questioned if the pregnant claimant herself is restricting her ability to work or availability for work. The Department questions all claimant’s that are restricting their availability for work.</p> <p>The claimant’s ability/availability for work would only be questioned if the pregnant claimant herself is restricting her ability to work or availability for work. The Department questions all claimant’s that are restricting their availability for work.</p> <p>A claimant’s disability is not considered a factor during the claim process unless the reason for separation is due to the claimant’s physical or mental impairment, or the inability to seek and accept full time work. Therefore, disability should not be defined in this Chapter of the Arizona Administrative Code.</p>
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**12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

No other matters are prescribed.

**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:**

The rules do not require a permit.

**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:**

Not applicable

**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 was submitted.

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

None

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable

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

**TITLE 6. ECONOMIC SECURITY  
CHAPTER 3. DEPARTMENT OF ECONOMIC SECURITY  
UNEMPLOYMENT INSURANCE**

**ARTICLE 51. DISCHARGE BENEFIT POLICY**

Section  
R6-3-51140. Misappropriation of Funds; Falsification of Employment Records

**ARTICLE 52. ABLE AND AVAILABLE BENEFIT POLICY FOR WORK**

Section  
R6-3-5205. General (~~Able and Available 5~~)  
R6-3-5240. Attendance at School or Training Course  
R6-3-52235. Health or Physical Condition (~~Able and Available 235~~)

**ARTICLE 55. TOTAL AND PARTIAL UNEMPLOYMENT BENEFIT POLICY**

Section  
R6-3-55460. Type of Compensation (~~Total and Partial Unemployment 460~~)

**ARTICLE 51. DISCHARGE BENEFIT POLICY**

**R6-3-51140. Misappropriation of Funds or Property; Falsification of Employment Records**

- A. ~~Cash shortage or misappropriation (Misconduct 140.15)~~
- ~~1. To determine whether a claimant's misappropriation of company funds or property is misconduct which that will disqualify the claimant from receipt of unemployment benefits, the Department shall consider the employer's practices regarding the handling of funds and whether the claimant knew that the claimant was misappropriating funds.~~
  - ~~21. A claimant who is discharged for knowingly misappropriating company funds is discharged for misconduct connected with employment. Misappropriation includes misusing credit cards, checks, or other financial instruments owned or controlled by the employer.~~
  - ~~32. A claimant who ~~retains~~ is discharged for retaining funds to which the claimant honestly believes the claimant is entitled, and makes adjustment or restitution upon notification, is discharged for reasons other than misconduct relating to such funds.~~
  - ~~3. A claimant who is discharged for knowingly misappropriating company property, or conversion of the employer's property or theft is discharged for misconduct connected with employment.~~
  - ~~34. A claimant who is discharged for retaining company property to which the claimant honestly believes the claimant is entitled, and makes adjustment or restitution upon notification, is discharged for reasons other than misconduct relating to such company property engaging in the misappropriation, theft, or conversion of the employer's property is discharged for misconduct.~~
- B. A claimant who is discharged for falsification of an employment application or for falsification of a written document related to the claimant's obtaining or retaining employment or for falsification of work or time records is discharged for misconduct related to employment when the available evidence establishes that the falsification was or is:
1. No change
  2. No change

**ARTICLE 52. ABLE AND AVAILABLE BENEFIT POLICY FOR WORK**

**R6-3-5205. General (~~Able and Available 5~~)**

~~A.R.S. § 23-771 of the Employment Security Law of Arizona provides in part: "An unemployed individual shall be eligible to receive benefits with respect to any week only if the commission finds that: . . . 3. He is able to work, and is available for work. An unemployed claimant is eligible to receive benefits under A.R.S. § 23-771 for a work week if the Department finds that the claimant was able and available to work during that week.~~

- ~~1. In order to conform to and carry out the meaning and intent of A.R.S. § 23-771, the word "is" as used in paragraph (3) of that section should be construed to mean "was" with respect to the week in question.~~
- ~~21. Availability for work is defined as the readiness of a claimant to accept suitable work when offered. To fulfill this requirement all the following criteria must be met: To be available for work, a claimant shall be:~~
  - a. ~~He must be accessible~~ Accessible to a labor market;
  - b. ~~He must be ready~~ Ready to work on a full-time basis;
  - c. ~~His personal circumstances must leave him free~~ Free from personal circumstances that interfere with the claimant's ability to accept and undertake some form of full-time work; and
  - d. ~~He must be actively~~ Actively seeking work or following a course of action reasonably designed to result in ~~his~~ the claimant's prompt reemployment in full-time work.
- ~~32. The criterion is availability for work, rather than availability of work. The willingness or unwillingness of employers an employer to hire is not relevant to the issue irrelevant.~~
- ~~43. The term "work" means suitable work (work which that is in a recognized occupation, for which the claimant is reasonably fitted qualified and which that he the claimant does not have good cause to refuse).~~



54. “Availability for work” is a relative term. The objective of availability is to determine ~~if whether~~ a claimant is genuinely and regularly attached to the labor market. “Availability for work” also is the relationship between the restrictions imposed ~~upon by~~ a claimant and the job requirements of the work ~~which that he~~ the claimant is qualified to perform. It implies that restrictions do not unduly lessen the possibilities of ~~his the claimant~~ accepting suitable work. Unreasonable restrictions ~~which that~~ substantially limit employment opportunities result in unavailability. Whether the restrictions are unreasonable depends ~~upon on~~ their source, as well as their effect ~~upon on~~ the possibilities of employment.
65. A claimant’s eligibility is not impaired when ~~he~~ the claimant is physically unable to work, or engaged in activities ~~which that~~ would prevent ~~his the claimant from~~ working, provided:
- No change
  - The inability or activities do not reduce or jeopardize ~~his the claimant’s~~ opportunities for employment.
6. A claimant who is unable to work full-time because of an established disability is not ineligible as long as the claimant is:
- Seeking work up to the limit of the claimant’s disability;
  - Is not completely unable to work; and
  - Able to work part time as provided by medical evidence that the restriction is due to a disability.
7. ~~Only~~ The Department shall consider only the working days in the claimant’s customary occupation ~~are to be considered in when~~ applying the one day’s inability to work or unavailability for work. “One working day” ~~is defined to mean means~~ a normal work shift. A normal shift for any claimant is what is standard ~~in for his the claimant’s~~ occupation. If the claimant is not able or available for more than a full shift, ~~he the claimant~~ is ineligible for benefits. ~~Whether a claimant’s activities have reduced or jeopardized his employment opportunities must be determined objectively and in retrospect. For example, under any of the following situations, a claimant’s activities on the day in question may have reduced or jeopardized his employment opportunities:-~~
- ~~The claimant refused a job or referral;~~
  - ~~The claimant failed to comply with his union registration or referral regulations;~~
  - ~~The Job Service or the claimant’s union tried to contact the claimant for possible referral, but was unable to do so;~~
  - ~~An employer made an effort to contact the claimant for a job offer or interview, but was unable to do so.~~
8. The Department shall determine whether a claimant’s activities during a working day have reduced or jeopardized the claimant’s employment opportunities. This determination must be made objectively. For example, under any of the following situations, a claimant’s activities on the day in question may have reduced or jeopardized the claimant’s employment opportunities:
- The claimant refused a job or referral;
  - The claimant failed to comply with the claimant’s union registration or referral regulations;
  - The Department or the claimant’s union tried to contact the claimant for possible referral but was unable to do so; or
  - An employer made an effort to contact the claimant for a job offer or interview, but was unable to do so.
89. In applying this ~~policy rule~~, the nature of the claimant’s activities is not a factor. It is immaterial whether the activities resulted from compelling circumstances or from normal activities of people in general.

#### R6-3-5240. Attendance at School or Training Course

- A. No change
- Satisfies the criteria for being a full-time student, as established by the school the student is attending;
  - Is a part-time student at 2 different schools if the number of the student’s combined hours meets at least 1 school’s definition of full-time student; or
  - Would be considered a full-time student under (1) or (2) and is enrolled in online courses that require the student to attend online lectures, participate in “blackboard” discussions, or be involved in other activities at a specific time that falls within the normal work day, unless the claimant meets one of the exceptions in (B)(1).
- B. No change
- No change
    - No change
      - No change
      - No change
      - No change
    - No change
      - No change
      - No change
      - No change
    - No change
    - The claimant is enrolled in online courses that allow the student to complete the courses at any time including evenings and weekends. The Department considers a claimant taking full time classes that fall into this category a “night” student and claimant may be eligible if the claimant is willing to accept full time work that falls during the claimant’s normal occupation work hours, and claimant is seeking this type of work.
  - No change
    - No change



- b. No change
- c. No change
- C. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- D. No change
  - 1. No change
  - 2. No change

**R6-3-52235. Health or Physical Condition (Able and Available 235)**

**A. General (Able and Available 235.05)**

1. Ability to work, a requisite for eligibility for benefits, generally means the physical and mental capacity of an individual to work under circumstances that ordinarily exist. Thus, ability to work is defined as the possession of A claimant is able to work if the claimant possesses the physical and mental capabilities necessary to perform suitable work for which one the claimant is reasonably fitted qualified. Conversely, inability to work refers to a lack of physical or mental ability to such a degree as to prevent the acceptance of work for which one is reasonably fitted which renders him unemployable.
2. The above definition does not restrict the term "work" "Work for which a claimant is qualified" is not restricted to the usual customary occupation of the claimant. It includes any type of work for which the claimant is reasonably fitted qualified and which that he the claimant can perform under normal conditions of employment. He may be prevented entirely by his disability A disability may entirely prevent a claimant from pursuing his the claimant's usual customary occupation and yet the claimant may retain sufficient physical and mental ability to perform some gainful full-time work for which he the claimant is reasonably fitted qualified. For the claimant to be considered able to work, it is not necessary that he compete successfully with able-bodied men or that he establish the willingness of employers to hire him. Therefore, a physical or mental disability, although lessening or even canceling a claimant's employment opportunities because of the unwillingness of employers to engage him, does not negate his ability to work. The question is The Department shall determine a claimant's "ability to work" on the basis of whether the claimant is able to work and not whether he the claimant can obtain work.
3. "Ability Able to work" does not include a claimant's appearance or any other personal characteristic which that might prejudice employers an employer against employing him the claimant. However, the term "ability to work" does include the fact that To determine whether a claimant is able to work, the Department shall consider whether:
  - a. the The work for which the claimant is qualified must exist exists as a recognized part of the labor market; and that
  - b. the The claimant must be is capable of performing such work without endangering the lives and well-being of himself, his fellow workers, the claimant, coworkers, the public, or his the employer.
4. Ordinarily, The Department considers a skilled workers worker who can no longer follow their the worker's trades trade are considered more able to work than an unskilled workers worker since because the former a skilled worker:
  - a. Typically possess possesses a number of skills which that can be transferred to a larger number of related fields; and
  - b. usually Usually can assume more positions of responsibility. Counseling services of the Job Service may succeed in revealing additional types of work for which the claimant is qualified.

**B. Age (Able and Available 235.1)**

1. Age, in itself, does not create a presumption that a claimant is unable to work. Additional factors, such as the claimant's separation from employment because of inability to produce or his retirement, must be present in order to raise a question of inability. Similarly, a A statement that a claimant was separated or retired because he the claimant was unable "to maintain his the claimant's production" raises just as much of a question as to the effect of the employer's requirements for the job as it does on the claimant's ability to perform work. If the claimant can show that the claimant is able to perform other suitable work for which the claimant is qualified and reasonably fitted, or that the claimant could still meet the production standards of other employers, the claimant would be able to work.
2. In either event it requires additional evidence of its import. If the claimant can show that he is able to perform other suitable work for which he is qualified and reasonably fitted, or that he could still meet the production standards of other employers, he would not be unable to work.

**C. Communicable disease (Able and Available 235.15)**

1. In determining whether The Department may consider a claimant who suffers from some physical impairment, an infectious or communicable disease is to be able to work, it is not only necessary to determine whether the claimant can physically perform the tasks for which he states he is available, but also, whether he can do so without substantially endangering the health and well-being of himself, his fellow workers, the public, or the employer: if the claimant is able to work in an occupation for which the claimant is reasonably qualified and:
2. A claimant who suffers from an infectious or communicable disease may be considered able to work-
  - a. if he The claimant is qualified for and willing to accept work in an occupation where the disease would not be a hazard; or
  - b. When the The claimant is under medical treatment and his a physician certifies that the disease is in a noncommunicable state, the claimant is able to work in an occupation for which he is reasonably fitted.



2. ~~However, Except, a claimant is not able to work until a physician certifies that the claimant is able to work without endangering others when;~~
- a. ~~the The~~ claimant's physician states that the claimant should not work because of the danger of infecting others; or
  - b. ~~when the The~~ law of the community prohibits his the claimant's employment because of the disease ~~the claimant is unable to work until his physician certifies that he is able to work without endangering others.~~
- D. ~~Illness or injury (Able and Available 235.25)~~ Seizures
1. ~~An individual's ability to work may be restricted by illness or injury which results in temporary, partial, or total disability. Again it is stressed that a claimant's ability is judged solely on the basis of his capability to perform work for which he is qualified and not on the willingness of employers to hire him.~~
  2. When a claimant is subject to periodic seizures ~~or, attacks, or any episodic conditions (such as epileptic seizures) which that~~ render ~~him the claimant~~ unable to work during the seizure ~~or, attack, or episodic condition, he may be presumed the Department may consider the claimant~~ able to work if, during the intervals between seizures ~~or, attacks, or episodic conditions, he the claimant~~ is able to perform work for which ~~he the claimant~~ is qualified ~~and which does not involve unusual hazards.~~
- E. ~~Pregnancy (Able and Available 235.4)~~
1. ~~Although pregnancy of itself may not render a woman unable to work, a claimant who is pregnant is presumed to be unable to work for a period of 8 weeks prior to the calculated date of delivery and for 6 weeks immediately following delivery. Such presumption may however be rebutted by medical evidence or other proof to the contrary. Pregnancy does not affect a woman's ability to work unless her physician restricts her from working in any occupation for which she is qualified.~~
  2. A pregnant woman who leaves employment because it is too difficult for her to perform work in her customary occupation may be considered able to work if there is medical evidence that she is able to do less strenuous work for which she is reasonably qualified and she is ready to accept such work. ~~However, if the claimant is not qualified to perform less strenuous work, or if her physician recommends that she should not work, she may be presumed unable to work.~~
  3. ~~A pregnant woman who The Department shall consider a woman unavailable for work if the woman, because she is pregnant, voluntarily leaves suitable employment which that she could have continued to perform and which that did not adversely affect her health may be presumed unavailable for work. However, when a claimant~~
  4. ~~When a woman was unable to work in the early months of pregnancy, but and has now recovered sufficiently to be able to return to work, she may be presumed, the Department shall consider her able to work, if her physician agrees that she is physically able to return to work.~~
  45. When a pregnant woman restricts her availability for employment to work ~~which that will~~ does not require her to stand, lift heavy objects, or travel great distances, etc., she may be presumed the Department may consider her able to work only if ~~it is shown she shows~~ that work for which she is reasonably fitted qualified:
    - a. ~~does Does~~ not require these conditions; and
    - b. ~~when there~~ There is a reasonable possibility of her obtaining such work within the restrictions imposed with those restrictions.
  5. ~~If a claimant states that she is able to work only part time because of her pregnancy, she may be presumed unable to work.~~
- F. Disability
1. A claimant with a disability may not be able to work full-time because of that disability. So long as the claimant is not completely restricted from all work, the Department may find the claimant able to work.
  2. If the claimant will be restricted in the claimant's ability to work or availability for work because of a disability, the Department may consider the claimant able to work if the claimant is seeking work up to the limit of the claimant's disability. Example: A claimant cannot work longer than four hours each day because of chronic pain. So long as that claimant is looking for and willing to work part time up to four hours per shift, the claimant is still able to work.
  3. A claimant who is completely disabled and cannot work at all is ineligible.
  4. A claimant shall substantiate the claimant's disability by appropriate documentation such as doctor's notes, military papers, or a judgment from a court.

#### ARTICLE 55. TOTAL AND PARTIAL UNEMPLOYMENT BENEFIT POLICY

##### R6-3-55460. Type of Compensation (~~Total and Partial Unemployment 460~~)

- A. ~~Dismissal or separation pay~~ Separation Pay (T.P.U. 460.35)
1. ~~Dismissal payments include A separation payment includes, but are not limited to, wages in lieu of notice, dismissal payments, and severance payments, and may be in accordance with the contract of employment made under an employment contract or an unilateral policy of the employer under A.R.S. § 23-621.~~
  2. Payments A payment may be made:
    - a. ~~as As~~ a lump sum at the time of termination of services; or
    - b. ~~in other instances, the The~~ employer may continue to include the worker on ~~his the employer's~~ payroll for one or more pay periods following the termination of the worker's services.
  3. Section 23-621 of the Employment Security Law of Arizona provides that an employee is unemployed with respect to any week in which he performs no services and with respect to which no wages are payable to him. Therefore, dismissal or separation payments, as shown above, are considered to be payments for past services and shall not be allocated to any period after the separation from work.
- B. Vacation, holiday or sick pay (T.P.U. 460.75)



1. No change
  2. The appropriate period to which vacation, ~~sick, or holiday,~~ or sick pay is allocable will be determined in one of the following ways:
    - a. If there ~~was is~~ a ~~written or verbal~~ contract, written or verbal, in effect between the employer and the claimant ~~in effect~~ at the time of separation, allocate to the appropriate period in accordance with the contract, continuing for the number of work days which the pay would cover at the regular wage rate.
    - b. If ~~there is no~~ ~~written or verbal~~ contract, written or verbal, was in effect, allocate to the appropriate period following the last day of ~~performance of services, continuing for work through~~ the number of work days ~~which that~~ the pay would cover at the regular wage rate.
  3. If in a particular situation the agreement was made for a purpose other than to establish a vacation period (e.g., to prevent payment of UI benefits for an extended period which the pay would not cover at the worker's pay rate), the appropriate period will be determined as in subsection ~~(B)~~ (B)(2)(b).
- C. No change
1. No change
  2. For purposes of A.R.S. §§ 23-621, 23-771(6) and 23-779(A) and (B), back pay awards are wages for the period for which the payment is made, ~~irrespective~~ regardless of when paid. This shall not affect the manner in which wages are reported for contribution purposes.
  3. For the purpose of this ~~policy rule~~, back pay awards include, but are not limited to, awards
    - a. No change
    - b. No change





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

The Board's Certification Advisory Committee met on February 6, 2018 to discuss and recommend changes to the Board to R7-2-606. The Board opened rulemaking at the February Board meeting, held a public hearing on March 20, received an official update at the March Board Meeting and closed rulemaking at the April 23, 2018 Meeting. No public comments were received.

The Board's Certification Advisory Committee met five times to discuss changes to R7-2-611 and 3 public comments were submitted regarding the waiver. Specifically, the comments sought clarification on the impact of the waiver and sought additional clarifying changes in the rule. Those changes were made. Another public comment requested a more formal approval process for applicants who request a waiver. This suggestion would be an unprecedented new requirement for certification applications and it was agreed that such a process would be carried out administratively rather than in Board rule or through official Board approval. For that reason, the suggestion was not included. The Board also held a public hearing on March 20, 2018, opened rulemaking in December 2017, provided an update at February 26, 2018 Board meeting and closed rulemaking at the April 23, 2018 Board meeting.

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

Not applicable

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

Not applicable

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

Not applicable

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

**TITLE 7. EDUCATION  
CHAPTER 2. STATE BOARD OF EDUCATION**

**ARTICLE 6. CERTIFICATION**

Section	
R7-2-606.	Proficiency Assessments
R7-2-611.	Special Education Teaching Certificates

**ARTICLE 6. CERTIFICATION**

**R7-2-606. Proficiency Assessments**

- A. The Arizona Teacher Proficiency Assessment is adopted as the proficiency assessment for applicants for teaching certificates. The Arizona Administrator Proficiency Assessment is adopted as the proficiency assessment for applicants for administrative certificates.
- B. The subject knowledge portion of the Arizona Teacher Proficiency Assessment shall assess proficiency as described in R7-2-602(H) as a requirement for certification of elementary and secondary teachers and in R7-2-602(H) and (J) as a requirement for certification of special education teachers related to the teacher's knowledge of the certification subject area or areas.
- C. The professional knowledge portion of the Arizona Teacher Proficiency Assessment shall assess proficiency as described in R7-2-602(H) as a requirement for certification of elementary, secondary, special education, and CTE teachers related to the teacher's pedagogical knowledge.
- D. The performance assessment portion of the Arizona Teacher Proficiency Assessment shall assess proficiency as described in R7-2-602(B), (C), (D), (E), (F), and (G) as a requirement for certification of elementary, secondary, and special education teachers. In lieu of a passing score on the performance portion of the Arizona Teacher Proficiency Assessment, a teacher who holds a provisional teaching certificate may convert such certificate within two months prior to its expiration to a standard elementary, secondary, or special education teaching certificate pursuant to subsection (H) until the Board adopts the performance assessment portion of the Arizona Teacher Proficiency Assessment. The Board shall adopt the performance assessment portion of the Arizona Teacher Proficiency Assessment, or make a decision that a performance assessment will no longer be required as part of the Arizona Teacher Proficiency Assessment.
- E. The Arizona Administrator Proficiency Assessment shall assess professional knowledge as described in R7-2-603 as a requirement for certification of administrators, supervisors, principals, and superintendents.
- F. The passing score for each assessment shall be determined by the Board using the results of validity and reliability studies. The passing score for each assessment shall be reviewed by the Board at least every three years.
- G. The proficiency assessments for professional knowledge and subject knowledge shall be administered at least six times each calendar year, at times and places determined by the Department, for a certificate, endorsement, or approved area shall be approved by the Board.
- H. The provisional elementary, secondary, or special education certificate allows the beginning teacher up to four semesters or two school years of teaching experience before completing the performance assessment portion of the Arizona Teacher Proficiency Assessment.
  - I. If the Board has adopted the performance assessment portion of the Arizona Teacher Proficiency Assessment but the teacher does not have full-time teaching experience for four semesters or two school years, the certificate shall, upon the written request of the holder, be extended once for the equivalent of the time the teacher was not employed during the provisional certification period.



2. If the Board has adopted the performance assessment portion of the Arizona Teacher Proficiency Assessment and the teacher has been employed for four semesters or two school years and has taken but not passed the performance assessment, the certificate shall be extended once, for one year, upon the written request of the holder.
  3. If the teacher has been employed full time for four semesters or two school years in a private school, public school, charter school, or parochial school or any Department of Defense dependent school or in a closely related education field and the Board has not yet adopted the performance portion of the Arizona Teacher Proficiency Assessment, the provisional certificate shall be converted within two months prior to its expiration to a standard teaching certificate upon verification by the teacher to the Department that the teacher has had four semesters or two school years of teaching experience or experience in a closely related education field. "Closely related education field" means employment involving the presentation of instruction to K through 12 students whether self-employed or employed by a private, parochial, public, or charter school.
  4. If the teacher has not been employed full time for four semesters or two school years in a private school, public school, charter school, or parochial school or any Department of Defense dependent school or in a closely related education field, and the Board has not yet adopted the performance assessment portion of the Arizona Teacher Proficiency Assessment, the provisional certificate shall be extended once for three years, upon written request of the holder to the Department. "Closely related education field" means employment involving the presentation of instruction to K through 12 students whether self-employed or employed by a private, parochial, public, or charter school.
  5. If the performance assessment portion of the Arizona Teacher Proficiency Assessment is adopted by the Board prior to the expiration of a teacher's provisional certificate, the provisional certificate shall be extended once for two years, upon written request of the holder to the Department, to allow the teacher additional time in which to take the performance portion of the assessment.
- I.** If the provisionally certified teacher has taken but not passed the performance assessment by the expiration date on the extended certificate pursuant to subsection (H)(1) or (2) of this Section, the individual may reapply for a provisional certificate after one year, upon verification of the following:
1. Efforts to remediate deficiencies identified in the performance assessment;
  2. Passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
  3. Completion of the requirements for the provisional certificate which are in effect at the time of reapplication.

#### **R7-2-611. Special Education Teaching Certificates**

- A.** Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619. An Early Childhood Special Education certificate as described in this Section is not required for individuals who hold the Early Childhood endorsement as described in R7-2-615 in combination with an Arizona cross-categorical, specialized special education, or ~~moderate to severe~~ moderate/severe disabilities teaching certificate as described in this Section. An Early Childhood Special Education certificate as described in this Section is not required for individuals who hold the Early Childhood Teaching Certificate as described in R7-2-608 in combination with an Arizona cross-categorical, specialized special education, or ~~moderate to severe~~ moderate/severe disabilities teaching certificate as described in this Section.
- B.** Terms used in this Section are defined in A.R.S. § 15-761.
- C.** ~~Standard Professional Cross-Categorical Special Education Certificate—grades K through 12 for applications received through December 31, 2015, and Standard Professional Mild-Moderate~~ Mild/Moderate Disabilities ~~Special Education Certificate—grades K through 12 for applications received on and after January 1, 2016.~~
1. ~~The certificate is valid for three years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).~~
  2. ~~The holder is qualified to teach students with mild to moderate~~ mild/moderate disabilities as documented by student needs in the individualized education program and the following categories, including: autism, mild/moderate intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
- ~~3.2.~~ The requirements are:
- a. A bachelor's degree,
  - b. One of the following:
    - i. Completion of a teacher preparation program in special education from an accredited institution which included courses in the instruction and behavior management of students with ~~mild-moderate~~ mild/moderate disabilities; or
    - ii. ~~A valid mild-moderate special education certificate from another state; or~~
    - iii. ~~Semester hours of education courses as follows:~~
      - (1) ~~For applications received through December 31, 2015: Forty-five semester hours of education courses which teach the standards described in R7-2-602, including 21 semester hours of special education courses and eight semester hours of practicum with students representing at least three of the five disability areas. Special education courses shall include survey of exceptional students; teaching methodologies and strategies for students with disabilities; foundations course in mild to moderate mental retardation-intellectual disabilities, learning disability, emotional disabilities, and physical/health impairment; and diagnosis and assessment of mild disabilities. Two years of verified teaching experience in special education in grades K through 12 may substitute for the eight semester hours of practicum; or~~
      - (2) ~~For applications received on and after January 1, 2016: Forty-five semester hours of education courses which teach the standards described in R7-2-602, including a minimum of 37 semester hours of special education courses with shall include: and eight semester hours of practicum with students with mild/moderate disabilities. Special education courses shall include foundations of special education, legal aspects, effective collaboration and communication practices, research-based instruction in mathematics, research-based instruction in English language arts, classroom management and behavior analysis, assessment and eligibility, language development and disorders, and electives. Two years of verified teaching experience in mild/moderate special education, grades K through 12 may substitute for the eight semester hours of practicum.~~
        - (a) ~~Foundations of special education;~~



- (b) Legal aspects;
- (c) Effective collaboration and communication practices;
- (d) Research-based instruction in math;
- (e) Research-based instruction in English language arts;
- (f) Classroom management and behavior analysis;
- (g) Assessment and eligibility;
- (h) Language development and disorders;
- (i) Electives; and a minimum of eight semester hours of practicum with students with mild/moderate disabilities. Two years of verified teaching experience in mild/moderate special education in grades K through 12 may substitute for the eight semester hours of practicum.

- c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
- d. A passing score on the ~~special education~~ subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in ~~mild to moderate~~ mild/moderate special education or otherwise qualifies for a waiver of the subject knowledge examination, and
- e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

**D. Standard Professional ~~Mild/Moderate~~ Mild/Moderate Disabilities ~~Special Education~~ Certificate - grades kindergarten through twelve for applications received on or after August 1, 2018.**

1. The holder is qualified to teach students with ~~mild to moderate~~ mild/moderate disabilities as documented by student needs in the individualized education program and the following categories, including: autism, mild/moderate intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
2. The requirements include all of the following:
  - a. A bachelor's degree;
  - b. Completion of a teacher preparation program in mild/moderate disabilities special education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
    - i. Research-based systematic phonics;
    - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
    - iii. Instructional design and lesson planning, including specially designed instruction;
    - iv. The learning environment, including classroom and behavioral management;
    - v. Instructional delivery, facilitation and methodologies;
    - vi. Legal aspects of special education, including individualized education programs and transition planning;
    - vii. Effective collaboration and communication practices, including modifications and accommodations;
    - viii. Research-based instruction in math;
    - ix. Research-based instruction in English language arts;
    - x. Assessment and eligibility, including monitoring and reporting requirements;
    - xi. Language development and disorders;
    - xii. Professional responsibility and ethical conduct;
    - xiii. Twelve weeks of capstone experience as described in R7-2-604 in ~~mild/moderate~~ mild/moderate special education in grades kindergarten through twelve, which may be completed during the valid period of a teaching intern certificate. One year of verified teaching experience in ~~mild/moderate~~ mild/moderate special education in grades kindergarten through twelve may substitute for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
  - c. A passing score on the ~~special education~~ professional knowledge portion of the Arizona Teacher Proficiency Assessment;
  - d. ~~A passing score on the special education subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in mild to moderate special education or otherwise qualifies for a waiver of the subject knowledge examination; and~~
  - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
3. Applicants may meet the requirements in subsection (D)(2)(b) with the submission of an application for the Standard Professional ~~Mild/Moderate~~ Mild/Moderate Disabilities ~~Special Education~~ Certificate grades kindergarten through twelve that includes evidence of two years of verified full-time teaching experience in ~~mild to moderate~~ mild/moderate disabilities special education in grades kindergarten through twelve and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (D)(2)(b)(i)-(xii). ~~One year of verified full-time teaching experience in mild to moderate disabilities special education in grades kindergarten through twelve may be substituted for the capstone experience.~~
4. Board approved educator preparation programs leading to dual certification in mild/moderate disabilities and elementary, middle school, or secondary education may exempt a student from the mild/moderate special education capstone experience upon the completion of the following:
  - a. Verification from the applicable district or charter school administrator that the student was employed continuously as a paraprofessional whose primary responsibility was working with students in mild/moderate special education classrooms for the two years preceding commencement of the capstone experience in elementary, middle school, or secondary education;
  - b. Verification from the applicable district or charter school administrator that the student received evaluations, in each of the preceding two years of employment as a paraprofessional, indicating effectiveness in performance; and



- c. Completion of the capstone experience in elementary, middle school or secondary education and demonstration of all of the following competencies during the dual certification educator preparation program:
- i. Participation on a multi-disciplinary evaluation team;
  - ii. Participation in and drafting of an acceptable individualized education program; and
  - iii. Planning and delivery of specially designed instruction for a class of students.
- E. Provisional Specialized Special Education Certificate – grades K through 12.
1. The certificate is valid for three years and is not renewable ~~but may be extended as set forth in R7-2-606(H) or (I).~~
  2. No new applications for a Provisional Specialized Education Certificate will be accepted after December 31, 2015.
  3. The holder is qualified to teach students with intellectual disabilities, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
  4. The requirements are:
    - a. ~~A bachelor's degree;~~
    - b. ~~One of the following:~~
      - i. ~~Completion of a teacher preparation program in the specified area of special education from an accredited institution; or~~
      - ii. ~~Forty five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses and eight semester hours of practicum in the designated area of disability. Special education courses shall include survey of exceptional students, teaching methodologies for students with disabilities, foundations of instruction in the designated area of disability, and diagnosis and assessment of disabilities. Two years of verified teaching experience in the area of disability in grades K through 12 may be substituted for the eight semester hours of practicum; or~~
      - iii. ~~A valid special education certificate in the specified area from another state.~~
    - e. ~~A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;~~
    - d. ~~A passing score on the specified disability special education portion of the Arizona Teacher Proficiency Assessment; and~~
    - e. ~~A valid fingerprint clearance card issued by the Arizona Department of Public Safety.~~
- F. Standard Professional Specialized Special Education Certificate – grades K through 12.
1. The certificate is valid for twelve years and may be renewed.
  2. The holder is qualified to teach students with intellectual disabilities, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
  3. The requirements are:
    - a. A valid provisional Arizona Provisional Specialized Special Education certificate, or a Provisional Specialized Special Education certificate which has not expired for more than one year;
    - b. ~~A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and~~
    - e. ~~A valid fingerprint clearance card issued by the Arizona Department of Public Safety.~~
- G. Standard Professional ~~Severely and Profoundly Disabled~~ Moderate/Severe Disabilities Certificate – grades K through 12.
1. The holder is qualified to teach students with ~~severe and profound~~ moderate/severe disabilities as documented by student needs in the individualized education program and the following categories, including: autism, moderate/severe intellectual disabilities, traumatic brain injury, emotional disability, orthopedic impairments, and/or other health impairments.
  2. The requirements are:
    - a. A bachelor's degree,
    - b. One of the following:
      - i. ~~Completion of a teacher preparation program in severe and profoundly disabled moderate/severe disabilities education from an accredited institution; or~~
      - ii. ~~A valid severe and profound special education certificate from another state; or~~
      - iii. ~~Semester hours of education courses as follows:~~
        - (1) ~~For applications received through December 31, 2015: Forty five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with severe and profound disabilities, foundations of instruction of students with severe and profound disabilities, and diagnostic and assessment procedures for students with severe and profound disabilities. Two years of verified teaching experience with students in grades PreK-12 who are severely and profoundly disabled may be substituted for the eight semester hours of practicum; or~~
        - (2) ~~For applications received on and after January 1, 2016: Forty-five semester hours of education courses which teach the standards described in R7-2-602, including a minimum of 37 semester hours of special education courses with shall include: and eight semester hours of practicum with students with moderate/severe disabilities. Special education courses shall include foundations of low incidence disabilities, legal aspects, effective collaboration and communication practices, adaptive communication, instructional strategies across the curriculum, classroom management and behavior analysis, assessment and eligibility, and electives. Two years of verified special education teaching experience in with students with moderate/severe disabilities, grades K through 12 may substitute for the eight semester hours of practicum.~~
          - (a) ~~Foundations low incidence disabilities;~~
          - (b) ~~Legal aspects;~~
          - (c) ~~Effective collaboration and communication practices;~~
          - (d) ~~Adaptive communication;~~
          - (e) ~~Instructional strategies across the curriculum;~~
          - (f) ~~Classroom management and behavior analysis;~~



- (g) ~~Assessment and eligibility;~~
  - (h) ~~Electives; and a minimum of eight semester hours of practicum with students with severe and profound disabilities. Two years of verified teaching experience in special education in grades K through 12 with students who have severe and profound disabilities may substitute for the eight semester hours of practicum.~~
  - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
  - d. A passing score on the ~~severely and profoundly disabled special education~~ subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in ~~severe and profound~~ moderate/severe special education or otherwise qualifies for a waiver of the subject knowledge examination, and
  - e. A valid fingerprint card issued by the Arizona Department of Public Safety.
- H. Standard Professional ~~Moderate to Severe~~ Moderate/Severe Disabilities Certificate – grades kindergarten through twelve for applications received on or after August 1, 2018.
1. The holder is qualified to teach students with ~~moderate to severe~~ moderate/severe disabilities as documented by student needs in the individualized education program and the following categories, including: autism, moderate/severe intellectual disabilities, traumatic brain injury, emotional disability, orthopedic impairments, and/or other health impairments.
  2. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in ~~moderate to severe~~ moderate/severe disabilities education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
      - i. Research-based systematic phonics;
      - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
      - iii. Instructional design and lesson planning, including specially designed instruction;
      - iv. The learning environment, including classroom and individual behavioral management;
      - v. Instructional delivery, facilitation and methodologies for teaching research-based instruction in math and English language arts;
      - vi. Legal aspects of special education, including individualized education programs and transition planning;
      - vii. Effective collaboration and communication practices, including modifications and accommodations;
      - viii. Adaptive communication, including language development and disorders;
      - ix. Assessment and eligibility, including monitoring and reporting requirements;
      - x. Professional responsibility and ethical conduct;
      - xi. Twelve weeks of capstone experience as described in R7-2-604 in special education in ~~moderate to severe~~ moderate/severe disabilities grades K through 12, which may be completed during the valid period of a teaching intern certificate. One year of verified full-time teaching experience in special education in ~~moderate to severe~~ moderate/severe disabilities grades kindergarten through twelve may substitute for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
    - c. A passing score on the ~~moderate to severe or severe and profound~~ professional knowledge portion of the Arizona Teacher Proficiency Assessment,
    - d. A passing score on the ~~elementary education~~ subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in ~~moderate to severe~~ moderate/severe special education or otherwise qualifies for a waiver of the subject knowledge examination, and
    - e. A valid fingerprint card issued by the Arizona Department of Public Safety.
  3. Applicants may meet the requirements in subsection (H)(2)(b) with the submission of an application for the Standard Professional ~~Moderate to Severe~~ Moderate/Severe Disabilities Certificate grades kindergarten through twelve that includes evidence of two years of verified full-time teaching experience in ~~moderate to severe~~ moderate/severe disabilities special education in grades kindergarten through twelve and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (H)(2)(b)(i)-(x). ~~One year of verified full-time teaching experience in moderate to severe disabilities special education in grades kindergarten through twelve may be substituted for the capstone experience.~~
- I. Standard Professional Hearing Impaired Certificate – birth through grade 12. The requirements are:
1. A bachelor's degree,
  2. One of the following:
    - a. Completion of a teacher preparation program in hearing impaired education from an accredited institution; or
    - b. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses for the hearing impaired and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with hearing impairment, foundations of instruction of students with hearing impairment, and diagnostic and assessment procedures for the hearing impaired. Two years of verified teaching experience in the area of hearing impaired in grades PreK-12 may be substituted for the eight semester hours of practicum; ~~or~~
    - e. ~~A valid hearing impaired certificate from another state.~~
  3. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
  4. A passing score on the ~~hearing impaired special education~~ subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in hearing impaired special education or otherwise qualifies for a waiver of the subject knowledge examination, and
  5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- J. Standard Professional Hearing Impaired Certificate – birth through grade twelve for applications received on or after August 1, 2018.



1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in hearing impaired education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
      - i. Research-based systematic phonics;
      - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
      - iii. Survey of exceptional students;
      - iv. Teaching methodologies for students with hearing impairment;
      - v. Foundations of instruction of students with hearing impairment;
      - vi. Diagnostic and assessment procedures for the hearing impaired;
      - vii. Professional responsibility and ethical conduct;
      - viii. Twelve weeks of capstone experience as described in R7-2-604 in hearing impaired special education birth through grade twelve, which may be completed during the valid period of a teaching intern certificate. One year of verified full-time teaching experience in the area of hearing impaired in birth through grade twelve may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
    - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
    - d. A passing score on the ~~hearing impaired special education~~ subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in hearing impaired special education or otherwise qualifies for a waiver of the subject knowledge examination; and
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  2. Applicants may meet the requirements in subsection (J)(1)(b) with the submission of an application for the Standard Professional Hearing Impaired Certificate – birth through grade twelve that includes evidence of receipt of two years of verified full-time teaching experience in hearing impaired special education birth through grade twelve and training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (J)(1)(b)(i)-(vii). ~~One year of verified full-time teaching experience in hearing impaired special education in birth through grade twelve may be substituted for the capstone experience.~~
- K. Standard Professional Visually Impaired Certificate – birth through grade 12.
- ~~1. The certificate is valid for three years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).~~
  2. The requirements are:
    - ~~a.1.~~ A bachelor's degree,
    - ~~b.2.~~ One of the following:
      - ~~i.a.~~ Completion of a teacher preparation program in visual impairment from an accredited institution; or
      - ~~ii.b.~~ Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses for the visually impaired and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with visual impairment, foundations of instruction of students with visual impairment, and diagnostic and assessment procedures for the visually impaired. Two years of verified teaching experience in the area of visually impaired in grades PreK-12 may be substituted for the eight semester hours of practicum; ~~or~~
      - ~~iii.~~ A valid visually impaired special education certificate from another state.
    - ~~e.3.~~ A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
    - ~~d.4.~~ A passing score on the ~~visually impaired special education~~ subject knowledge portion of the Arizona Teacher Proficiency Assessment, and
    - ~~e.5.~~ Demonstration of competency in Braille through one of the following:
      - ~~i.a.~~ A passing score on the original version of the National Library of Congress certification exam, or
      - ~~ii.b.~~ A valid certificate for a literary Braille transcriber issued by the National Library of Congress, or
      - ~~iii.c.~~ A passing score on a Braille exam administered by another state, or
      - ~~iv.d.~~ A passing score on the Braille exam developed and administered by the University of Arizona. Individuals who take this test and are not students at the University of Arizona may be assessed a fee.
    - ~~f.6.~~ A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- L. Standard Professional Visually Impaired Certificate – birth through grade 12 for applications received on or after August 1, 2018.
1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in visual impairment from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
      - i. Research-based systematic phonics;
      - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
      - iii. Survey of exceptional students;
      - iv. Teaching methodologies for students with visual impairment;
      - v. Foundations of instruction of students with visual impairment;
      - vi. Diagnostic and assessment procedures for the visually impaired;
      - vii. Professional responsibility and ethical conduct;



- viii. Twelve weeks of capstone experience as described in R7-2-604 in visually impaired special education birth through grade twelve, which may be completed during the valid period of a teaching intern certificate. One year of verified full-time teaching experience in the area of visually impaired in birth through grade twelve may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
  - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
  - d. A passing score on the ~~visually impaired special education~~ subject knowledge portion of the Arizona Teacher Proficiency Assessment, ~~and~~
  - e. Demonstration of competency in Braille through one of the following:
    - i. A passing score on the original version of the National Library of Congress certification exam, or
    - ii. A valid certificate for a literary Braille transcriber issued by the National Library of Congress, or
    - iii. A passing score on a Braille exam administered by another state, or
    - iv. A passing score on the Braille exam developed and administered by the University of Arizona. Individuals who take this test and are not students at the University of Arizona may be assessed a fee.
  - f. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
2. Applicants may meet the requirements in subsection (L)(1)(b) with the submission of an application for the Standard Professional Visually Impaired Certificate – birth through grade twelve that includes evidence of two years of verified full-time teaching experience in visually impaired special education birth through grade twelve and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (L)(1)(b)(i)-(vii). ~~One year of verified full-time teaching experience in visually impaired special education in birth through grade twelve may be substituted for the capstone experience.~~
- M. Standard Professional Early Childhood Special Education Certificate – ~~birth through 5 years for applications received through December 31, 2015, and birth~~ Birth through age 8 or grade 3 ~~for applications received on and after January 1, 2016.~~
- 1. The requirements are:
    - a. A bachelor’s degree,
    - b. ~~One of the following:~~
      - i. ~~Completion of a teacher preparation program in early childhood special education from an accredited institution;~~ ~~or~~
      - ii. ~~A valid early childhood special education certificate from another state; or~~
      - iii. ~~Early childhood education coursework and practicum experience which teaches the knowledge and skills described in R7-2-602 and includes the following:~~
        - (1) ~~For applications received through December 31, 2015: Forty five semester hours of education courses which teach the standards described in R7-2-602, including child development and learning, language development, social and emotional development, curriculum development and implementation, and assessment and evaluation, early childhood special education, and eight semester hours of practicum in early childhood special education. Two years of verified teaching experience in the area of early childhood special education may be substituted for the eight semester hours of practicum; or~~
        - (2) ~~For applications received on and after January 1, 2016:~~
  - 1. ~~Thirty seven semester hours of early childhood education courses which teach the standards described in R7-2-602, to include all of the following areas of study:~~
    - a. ~~Foundations early childhood education and special education;~~
    - b. ~~Behavioral interventions for children with an without disabilities;~~
    - c. ~~Characteristics and quality practices for typical and atypical behaviors of young children;~~
    - d. ~~Typical and atypical child growth and development, including health, safety and nutrition with an emphasis on special health care needs for children birth through grade 3;~~
    - e. ~~Child, family, cultural and community relationships including community organizations that support and assist children with disabilities and their families;~~
    - f. ~~Developmentally appropriate instructional and inclusive methodologies for teaching social and emotional development, language arts, math, science, social studies, the arts and diagnosis and remediation of learning difficulties;~~
    - g. ~~Early language and literacy development including communication methods in early childhood education/special education;~~
    - h. ~~Assessment and evaluation for early childhood special education to include observing, assessing, monitoring and reporting on the progress of young children; and~~
  - 2. ~~A minimum of eight semester hours of practicum, including:~~
    - a. ~~A minimum of four semester hours in a supervised field experience, practicum, internship or student teaching setting serving children with identified special needs birth through preschool or one year of full-time teaching experience with children identified with special needs birth through preschool, and~~
    - b. ~~A minimum of four semester hours in a supervised student teaching setting serving children with identified special needs in kindergarten through grade 3 or one year of full-time teaching experience with children identified with special needs kindergarten through grade 3.~~
    - c. A passing score on the ~~early childhood~~ subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor’s, master’s or doctoral degree in early childhood special education or otherwise qualifies for a waiver of the subject knowledge examination,
    - d. A passing score on the ~~early childhood special education~~ professional knowledge portion of the Arizona Teacher Proficiency Assessment, ~~and~~
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  - 2. Applicants may meet the requirements in subsection (M)(1)(b) with completion of the following:



- a. Thirty-seven semester hours of early childhood education which teach the standards described in R7-2-602 which include the following areas of study:
- i. Foundations early childhood education and special education;
  - ii. Behavioral interventions for children with and without disabilities;
  - iii. Characteristics and quality practices for typical and atypical behaviors of young children;
  - iv. Typical and atypical child growth and development, including health, safety and nutrition with an emphasis on special health care needs for children birth through grade 3;
  - v. Child, family, cultural and community relationships including community organizations that support and assist children with disabilities and their families;
  - vi. Developmentally appropriate instructional and inclusive methodologies for teaching social and emotional development, language arts, math, science, social studies, and the arts;
  - vii. Diagnosis and remediation of learning difficulties;
  - viii. Early language and literacy development including communication methods in early childhood education/special education;
  - ix. Assessment and evaluation for early childhood special education to include observing, assessing, monitoring and reporting on the progress of young children;
  - x. A minimum of four semester hours in a supervised field experience, practicum, internship or student teaching setting serving children with identified special needs birth through preschool or one year of full-time teaching experience with children identified with special needs birth through preschool; and
  - xi. A minimum of four semester hours in a supervised student teaching setting serving children with identified special needs in kindergarten through grade 3 or one year of full time teaching experience with children identified with special needs kindergarten through grade 3.
- N. Standard Professional Early Childhood Special Education Certificate – birth through age eight or grade three for applications received on or after August 1, 2018.
1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in early childhood special education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
      - i. Research-based systematic phonics;
      - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
      - iii. Teaching students with exceptionalities;
      - iv. Characteristics and quality practices for typical and atypical behaviors of young children, including behavioral interventions for children with and without disabilities;
      - v. Typical and atypical child growth and development, including health, safety and nutrition with an emphasis on special health care needs for children birth through grade three;
      - vi. Child, family, cultural and community relationships including community organizations that support and assist children with disabilities and their families;
      - vii. Developmentally appropriate instructional and inclusive methodologies for teaching social and emotional development, language arts, math, science, social studies, the arts and diagnosis and remediation of learning difficulties;
      - viii. Early language and literacy development including communication methods in early childhood education/special education;
      - ix. Assessment and evaluation for early childhood special education to include observing, assessing, monitoring and reporting on the progress of young children;
      - x. Substantial experience in practicum as described in R7-2-604 serving children with exceptionalities birth through preschool and kindergarten through grade three;
      - xi. Professional responsibility and ethical conduct; and
      - xii. Twelve weeks of capstone experience as described in R7-2-604 serving children with exceptionalities in kindergarten birth through grade three, which may be completed during the valid period of a teaching intern certificate. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
    - c. A passing score on the ~~early childhood special education~~ professional knowledge portion of the Arizona Teacher Proficiency Assessment,
    - d. A passing score on the ~~early childhood~~ subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in early childhood special education or otherwise qualifies for a waiver of the subject knowledge examination, and
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  2. Applicants may meet the requirements in subsection (N)(1)(b) with the submission of an application for the Standard Professional Early Childhood Special Education Certificate – birth through age eight or grade three that includes two years of verified full-time teaching experience in early childhood special education serving children birth through prekindergarten and kindergarten through grade three and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (N)(1)(b)(i)-(xi). ~~One year of verified full-time teaching experience in early childhood special education serving children birth through prekindergarten and children kindergarten through grade three may be substituted for the capstone experience.~~



- 3. Board approved educator preparation programs leading to dual certification in early childhood special education and early childhood teaching may exempt a student from the early childhood special education capstone experience upon completion of the following:
  - a. Verification from the applicable district or charter school administrator that the student was employed continuously as a paraprofessional whose primary responsibility was working with students in early childhood special education for two years preceding commencement of the early childhood teaching capstone experience;
  - b. Verification from the applicable district or charter school administrator that the student received evaluations, in each of the preceding two years of employment as a paraprofessional, indicating effectiveness in performance; and
  - c. Completion of the capstone experience in early childhood education and demonstration of all of the following competencies during the dual certification educator preparation program:
    - i. Participation on a multi-disciplinary evaluation team;
    - ii. Participation in and drafting of an acceptable individualized education program; and
    - iii. Planning and delivery of specially designed instruction for a class of students.
- Q.** Provisional Cross-Categorical Special Education Certificate – grades K through 12
  - 1. No new applications for the Provisional Cross-Categorical Special Education certificate are accepted as of December 31, 2015.
  - 2. Individuals who hold a valid Provisional Cross-Categorical Special Education certificate are qualified to teach students with mild to moderate autism, intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
  - 3. The Provisional certificate may not be renewed or extended. Individuals who hold a valid Provisional Cross-Categorical Special Education certificate, or a Provisional Cross-Categorical certificate which has not expired for more than one year, may apply for a Standard Professional Cross-Categorical Special Education certificate.
- P.** Standard Professional Cross-Categorical Special Education Certificate – grades K through 12.
  - 1. The Standard Professional Cross-Categorical is valid for 12 years and may be renewed.
  - 2. Individuals who hold a valid Standard Professional Cross-Categorical Special Education certificate are qualified to teach students with autism, intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
  - 3. The requirements are:
    - a. An Arizona Provisional Cross-Categorical Special Education Certificate that is either valid or has not expired for more than one year.
    - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.



**NOTICES OF RULEMAKING DOCKET OPENING**

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.

**NOTICE OF RULEMAKING DOCKET OPENING  
DEPARTMENT OF HEALTH SERVICES  
COMMUNICABLE DISEASES AND INFESTATIONS**

[R18-80]

- 1. Title and its heading:** 9, Health Services
- Chapter and its heading:** 6, Department of Health Services - Communicable Diseases and Infestations
- Articles and their headings:** 8, Assaults on Public Safety Employees and Volunteers
- Section numbers:** R9-6-801 and R9-6-802 (*The Department may add, delete, or modify other Sections, as necessary.*)

**2. The subject matter of the proposed rules:**  
 Arizona Revised Statutes (A.R.S.) § 36-136(H)(1) requires the Arizona Department of Health Services (Department) to make rules defining and prescribing "reasonably necessary measures for detecting, reporting, preventing, and controlling communicable and preventable diseases." A.R.S. § 13-1210 authorizes a public safety employee or volunteer, an Arizona State Hospital (AzSH) employee, or the employing entity to petition for court-ordered testing of the blood of the alleged perpetrator of an assault on a public safety employee or volunteer or an AzSH employee. The Department has adopted in Arizona Administrative Code (A.A.C.) Title 9, Chapter 6, Article 8, rules to implement these statutes. As part of the five-year-review report for 9 A.A.C. 6, Article 8, the Department identified that the rules are inconsistent with A.R.S. § 13-1210, as amended by Laws 2008, Ch. 203, § 1, because the rules do not explicitly include AzSH employees. After receiving an exception from the Governor's rulemaking moratorium established by Executive Order 2018-02, the Department is revising the rule by expedited rulemaking to make these changes to reduce a regulatory burden while achieving the same regulatory objective, comply with statutory requirements, and help eliminate confusion on the part of the public. The proposed amendments will conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State. The Department may add, delete, or modify other Sections, as necessary.

**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 rules:**

Name: Jessica Rigler, Branch Chief  
 Address: Department of Health Services  
 Public Health Preparedness  
 150 N. 18th Ave., Suite 100  
 Phoenix, AZ 85007-3248  
 Telephone: (602) 364-3909  
 Fax: (602) 364-3199  
 E-mail: Jessica.Rigler@azdhs.gov  
 or  
 Name: Robert Lane, Chief  
 Address: Department of Health Services  
 Office of Administrative Counsel and Rules  
 150 N. 18th Ave., Suite 200  
 Phoenix, AZ 85007  
 Telephone: (602) 542-1020  
 Fax: (602) 364-1150  
 E-mail: Robert.Lane@azdhs.gov

**5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
 To be announced in the Notice of Proposed Expedited Rulemaking



- 6. A timetable for agency decisions or other action on the proceeding, if known:**  
To be announced in the Notice of Proposed Expedited Rulemaking



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 RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 316: NONMETALLIC MINERAL PROCESSING

[M18-44]

The Maricopa County Air Quality Department (MCAQD) is proposing to revise Rule 316 (Nonmetallic Mineral Processing). The Control Officer is filing this notice of proposed rulemaking for publication in the register, as required by Arizona Revised Statute (A.R.S.) § 49-471.04. This notice includes the preamble, as prescribed in A.R.S. § 49-471.05, and the exact wording of the rule.

PREAMBLE

1. Statutory authority for the rulemaking:

A.R.S. §§ 11-251.18, 49-112, 49-474, 49-479 and 49-480

2. Name and address of department personnel with whom persons may communicate regarding the rulemaking:

Name: Kristi Beck or Hether Krause
Maricopa County Air Quality Department
Planning and Analysis Division
Address: 1001 N. Central Ave., 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

3. Rulemaking process:

This rulemaking is following procedures identified in state statutes and the Maricopa County Enhanced Regulatory Outreach Program (EROP) Policy.

- County Manager Briefing: January 7, 2013
Stakeholder Workshops: April 25, 2013
November 30, 2017
January 8, 2018
Board of Health Meeting to Approve Expedited Rulemaking: February 2, 2018

Written comments may be submitted to the MCAQD through the EROP website (see Item #2 of this notice).

An oral proceeding will be scheduled only upon receipt of a written request before June 18, 2018, at 5:00 p.m.

Responses to all written comments received since November 2017 Stakeholder Workshop will be included in the Draft Notice of Final Rulemaking. The Draft Notice of Final Rulemaking will be posted to the EROP website before the public hearing with the Maricopa County Board of Supervisors. At the public hearing, the Board of Supervisors will vote on the proposed rule.

4. Explanation of the rule, including the control officer's reasons for initiating the rulemaking:

Rule 316 (Nonmetallic Mineral Processing) limits particulate matter emissions from sand and gravel plants, concrete batch plants, and hot mix asphalt plants. Rule 316 requires compliance with emission limits and implementation of control measures. Rule 316 also includes requirements for training, monitoring, recordkeeping, and reporting. Rule 316 was adopted on July 6, 1993 and revised three times thereafter, to incorporate requirements prescribed by the Clean Air Act and the Environmental Protection Agency (EPA).

The MCAQD is proposing to revise Rule 316 for the following reasons: to clarify the applicability and several requirements of Rule 316; to consolidate applicable requirements for nonmetallic mineral processing and related operations in a single rule; to incorporate EPA approved alternative control measures and test methods; to ensure the rule applies equitably to similar operations; to correct a deficiency



that was noted by the EPA when Rule 316 was approved; to update the compliance schedule for rumble grates; and to address safety concerns identified by stakeholders.

In the past, Rule 316 has not applied to cement and fly ash transfer facilities because cement and fly ash are not nonmetallic minerals. However, Rule 316 does contain standards relating to the transfer and storage of cement, lime, and fly ash that occurs at nonmetallic mineral processing plants and/or rock product processing plants. To clarify that rule 316 is only applicable to nonmetallic mineral processing plants and related operations, the MCAQD is proposing to add exemptions for dry material transfer facilities and water treatment facilities in Section 103. The MCAQD is also proposing to define "dry material" and "transfer facility" in Section 200.

Since 2005, facilities subject to Rule 316 have been required to comply with two fugitive dust rules (Rule 310 and Rule 316) which contain different requirements for controlling emissions. To clarify the requirements, the MCAQD is proposing to consolidate all fugitive dust control measures for nonmetallic mineral processing and related operations in a single rule. In addition, the MCAQD will incorporate a 20% opacity limit for emissions of blue smoke (which are currently subject to an identical limit in Rule 300).

After Rule 316 was revised in 2008, the EPA promulgated new requirements for nonmetallic mineral processing (40 CFR 60 Subpart OOO). In addition, EPA approved requests for an alternative trackout control requirement, alternative minimum moisture contents for products feeding hot mix asphalt plants, and an alternative test method for soil moisture testing. Finally, in 2011, EPA approved Rule 310 which contained more flexible compliance options for controlling wind-blown dust. The MCAQD is proposing to clarify the requirements by incorporating emissions limits from the federal New Source Performance Standards for Nonmetallic Mineral Processing and by incorporating all EPA approved alternatives to the requirements of Rule 316. The MCAQD is also proposing to incorporate more flexible compliance options for wind-blown dust from Rule 310.

Control requirements for cement, lime, and fly ash storage silos were added to Rule 316 in 2005. More recently, the MCAQD learned that other pozzolan materials, which are similar to cement, lime, and fly ash, are in use at some facilities. To ensure the rule applies equitably to similar operations, the MCAQD is proposing to include control requirements for dry material storage silos and to define dry material.

Rule 316 also includes tiered requirements for trackout control devices and for cleaning paved roads identified in the dust control plan, based on the number of aggregate trucks, mixer trucks and/or batch trucks exiting the facility on any day. To ensure that the requirements apply equitably to similar operations, the MCAQD is proposing to clarify that it is not necessary to clean paved roads identified in the dust control plan if there is less than 12 linear feet of bulk material present on the paved roads. In addition, the MCAQD is proposing to include delivery trucks when determining which trackout control and cleaning schedules are applicable to each facility.

When EPA approved Rule 316 into the Arizona State Implementation Plan (SIP) in 2009, the technical support document specified that changes to the requirements for new open storage piles would be required the next time Rule 316 was revised. As a result, the MCAQD is proposing to require installation of new open storage piles 25 feet or more from the property line, unless it can be demonstrated to the Control Officer that there is not adequate space to install the open storage piles 25 feet or more from the property line.

Rule 316 currently grandfathers rumble grates that were installed prior to June 12, 2008. In the draft rule, the MCAQD is proposing to update the compliance schedule for existing rumble grates. The updated compliance schedule will require rumble grates installed or moved after the date of rule adoption to meet the specifications outlined in Section 260. The revised compliance schedule will also require existing rumble grates to comply with the specifications in Section 260, if the rumble grates are installed at facility that receives two or more violations for trackout during any consecutive 24-month period.

The proposed changes to Rule 316 will also clarify the soil moisture testing requirements, provide more flexibility for site personnel to identify locations where soil moisture samples can safely be collected, reduce administrative requirements, and make minor editorial changes.

**5. Studies relied on in the control officer's evaluation of or justification for the rule and where the public may obtain or review the studies, all data underlying the studies, any analysis of the studies and other supporting material.**

Not applicable

**6. An economic, small business and consumer impact statement:**

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement, as prescribed by A.R.S. §§ 41-1055, subsections A, B and C, and 41-1035:

**An identification of the proposed rulemaking, including all of the following:**

This rulemaking is proposing to revise Rule 316.

**(a) The conduct and its frequency of occurrence that the rule is designed to change.**

This rulemaking is intended to revise Rule 316 to consolidate applicable requirements for nonmetallic mineral processing and related operations in a single rule; to incorporate EPA approved alternative control measures and test methods; to ensure the rule applies equitably to similar operations; to correct a deficiency that was noted by the EPA when Rule 316 was approved; to update the compliance schedule for rumble grates; and to address safety concerns identified by stakeholders.

**(b) The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed.**

This rulemaking is intended to revise Rule 316 to consolidate applicable requirements for nonmetallic mineral processing and related operations in a single rule; to incorporate EPA approved alternative control measures and test methods; to ensure the rule



applies equitably to similar operations; to correct a deficiency that was noted by the EPA when Rule 316 was approved; to update the compliance schedule for rumble grates; and to address safety concerns identified by stakeholders.

**(c) The estimated change in frequency of the targeted conduct expected from the rule change.**

This rulemaking is intended to revise Rule 316 to consolidate applicable requirements for nonmetallic mineral processing and related operations in a single rule; to incorporate EPA approved alternative control measures and test methods; to ensure the rule applies equitably to similar operations; to correct a deficiency that was noted by the EPA when Rule 316 was approved; to update the compliance schedule for rumble grates; and to address safety concerns identified by stakeholders.

**A brief summary of the information included in the economic, small business and consumer impact statement.**

This rulemaking should not have an economic impact on small businesses or consumers in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on small businesses. This rulemaking is intended to clarify existing regulatory requirements.

**Name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement.**

Name: Kristi Beck or Hether Krause  
Maricopa County Air Quality Department  
Planning and Analysis Division  
Address: 1001 N. Central Ave., 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>

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

This rulemaking should not have an economic impact on small businesses or consumers in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on small businesses. This rulemaking is intended to clarify existing regulatory requirements.

**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 proposed rulemaking.**

This rulemaking should not have an economic impact on the MCAQD or any other agency. The proposed revisions do not impose any new, significant compliance burdens on businesses; therefore, the MCAQD and other agencies should not have any extra costs related to the rulemaking.

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

This rulemaking should not have an economic impact on any political subdivision in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on businesses.

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

This rulemaking should not have an economic impact on any businesses in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on 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 proposed rulemaking.**

Because this rulemaking does not impose any new, significant compliance burdens on businesses, agencies, and political subdivisions of this state, the MCAQD does not anticipate this rulemaking will have an impact on private and public employment.

**A statement of the probable impact of the proposed rulemaking on small businesses. The statement shall include:**

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

Small businesses that conduct nonmetallic mineral processing or related operations (such as concrete plants or asphalt plants) will be subject to this rulemaking.

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

This rulemaking should not have an economic impact on any businesses in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on businesses.

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

**i. Establish less stringent compliance or reporting requirements in the rule for small businesses.**

This rulemaking should not have an economic impact on any businesses in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on businesses.

**ii. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.**

This rulemaking should not have an economic impact on any businesses in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on businesses.

**iii. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.**



This rulemaking should not have an economic impact on any businesses in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on businesses.

**iv. Establish performance standards for small businesses to replace design or operational standards in the rule.**

This rulemaking should not have an economic impact on any businesses in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on businesses.

**v. Exempt small businesses from any or all requirements of the rule.**

This rulemaking should not have an economic impact on any businesses in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on businesses.

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

The proposed revisions do not impose any new, significant compliance burdens on businesses. As a result, this rulemaking should not have an economic impact on any private persons or consumers in Maricopa County.

**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 proposed rulemaking, including the monetizing of the costs and benefits for each option and providing the rationale for not using nonselected alternatives.**

This rulemaking should not have an economic impact on small businesses or consumers in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on small businesses. This rulemaking is intended to clarify existing regulatory requirements.

**A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data.**

Not applicable

**7. The proposed effective date of the rule:**

The proposed effective date of this rulemaking is October 24, 2018.

**8. Such other matters as are prescribed by statute and that are applicable to the county or to any specific rule or class of rules:**

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 MCAQD is in compliance with A.R.S. §§ 49-112(A) and (B). This rulemaking is not making the rule more stringent.

**EXACT WORDING OF THE RULE**

**REGULATION III – CONTROL OF AIR CONTAMINANTS**

**RULE 316**

**NONMETALLIC MINERAL PROCESSING**



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- ~~214~~ 218 CRUSHER
- 219 DELIVERY TRUCK
- ~~215~~ 220 DISTURBED SURFACE AREA
- 221 DRY MATERIAL
- ~~216~~ 222 DRY MIX CONCRETE PLANT
- ~~217~~ 223 DUST-GENERATING OPERATION
- ~~218~~ 224 DUST SUPPRESSANT
- ~~219~~ 225 ENCLOSED TRUCK OR RAILCAR LOADING STATION
- ~~220~~ 226 END OF WORK DAY
- ~~221~~ 227 FABRIC FILTER BAGHOUSE
- 228 FACILITY
- 229 FLY ASH
- ~~222~~ 230 FREEBOARD
- ~~223~~ 231 FUGITIVE DUST CONTROL MEASURE
- ~~224~~ 232 FUGITIVE DUST CONTROL TECHNICIAN
- ~~225~~ 233 FUGITIVE DUST EMISSION



	<u>234</u>	<u>GRAVEL PAD</u>
<del>226</del>	<u>235</u>	GRINDING MILL
<del>227</del>	<u>236</u>	HAUL/ACCESS ROAD
<del>228</del>	<u>237</u>	HAUL TRUCK
<del>229</del>	<u>238</u>	INFREQUENT OPERATIONS
	<u>239</u>	<u>LIME</u>
	<u>230</u>	<del>MATERIAL DELIVERY TRUCK</del>
	<u>240</u>	<u>MATERIAL STORAGE AND SILO LOADING OPERATIONS</u>
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<del>232</del>	<u>242</u>	MOTOR VEHICLE
<del>233</del>	<u>243</u>	NEW FACILITY
<del>234</del>	<u>244</u>	NONMETALLIC MINERAL
<del>235</del>	<u>245</u>	NONMETALLIC MINERAL PROCESSING PLANT
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<del>250</del>	<u>263</u>	SILO
<del>251</del>	<u>264</u>	SILT
<del>252</del>	<u>265</u>	SPILLAGE
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<del>254</del>	<u>267</u>	STAGING AREA
	<u>268</u>	<u>STORAGE BIN</u>
	<u>255</u>	<del>TEMPORARY FACILITY</del>
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- ~~257~~    270    TRACKOUT CONTROL DEVICE
- 271    TRANSFER FACILITY
- ~~258~~    272    TRANSFER POINT
- ~~259~~    273    TRUCK DUMPING
- ~~260~~    274    TRUCK WASHER
- 275    UNPAVED PARKING LOT
- ~~261~~    276    UNPAVED ROAD
- ~~262~~    277    VENT
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- 279    WET MINING OPERATION
- 280    WET SCREENING OPERATION
- ~~263~~    281    WHEEL WASHER
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- ~~264~~    ~~WIND EVENT~~

**SECTION 300 – STANDARDS**

- 301    CRUSHING AND SCREENING – PROCESS EMISSION LIMITATIONS AND CONTROLS
- 302    ASPHALTIC CONCRETE PLANTS – PROCESS EMISSION LIMITATIONS AND CONTROLS
- 303    ~~RAW MATERIAL STORAGE AND DISTRIBUTION~~ SILO LOADING OPERATIONS, CONCRETE PLANTS, AND/OR BAGGING OPERATIONS – PROCESS EMISSION LIMITATIONS AND CONTROLS
- 304    OTHER ~~ASSOCIATED~~ OPERATIONS
- 305    AIR POLLUTION CONTROL EQUIPMENT AND APPROVED EMISSION CONTROL SYSTEM (ECS)
- 306    FUGITIVE DUST EMISSION LIMITATIONS
- 307    FUGITIVE DUST CONTROL MEASURES
- 308    FACILITY INFORMATION SIGN
- 309    FUGITIVE DUST CONTROL TECHNICIAN
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- 311    DUST CONTROL PLAN
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**SECTION 400 – ADMINISTRATIVE REQUIREMENTS**

- 401    COMPLIANCE SCHEDULE FOR NEWLY AMENDED PROVISIONS OF THIS RULE

**SECTION 500 – MONITORING AND RECORDS**

- 501    MONITORING, RECORDKEEPING AND REPORTING
- 502    COMPLIANCE DETERMINATION FOR PROCESS EMISSIONS AND CONTROLS
- 503    COMPLIANCE DETERMINATION FOR EMISSIONS AND CONTROLS THAT ARE REGULATED BY SECTION 301.1(b)(3), SECTION 302.1(e), ~~304~~ AND/OR SECTION 306 OF THIS RULE
- 504    COMPLIANCE DETERMINATION FOR SOIL MOISTURE CONTENT AND SOIL COMPACTION CHARACTERISTICS TEST METHODS ~~ADOPTED~~ INCORPORATED BY REFERENCE
- 505    COMPLIANCE DETERMINATION FOR STABILIZATION STANDARDS TEST METHODS ~~ADOPTED~~ INCORPORATED BY REFERENCE



506 CERTIFIED STREET SWEEPERS EQUIPMENT LIST ~~ADOPTED~~ INCORPORATED BY REFERENCE

Adopted 07/06/93

Revised 04/21/99  
Revised 06/08/05  
Revised 03/12/08

Adopted 07/06/93; Revised 04/21/99; Revised 06/08/05; Revised 03/12/08; Revised XX/XX/XXXX

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

RULE 316  
NONMETALLIC MINERAL PROCESSING

SECTION 100 – GENERAL

- 101 **PURPOSE:** To limit the emission of particulate matter into the ambient air from any nonmetallic mineral processing plant ~~and/or rock product processing plant~~ and any related operations.
- 102 **APPLICABILITY:** The provisions of this rule shall apply to any commercial and/or industrial nonmetallic mineral processing plant ~~and/or rock product processing plant and any related operations.~~ Compliance with the provisions of this rule shall not relieve any person subject to the requirements of this rule from complying with any other applicable rules, including federally enforceable New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. In such case, the more stringent standard shall apply. Whenever more than one rule, regulation, or emission limit applies to nonmetallic mineral processing and any related operations subject to this rule, the more stringent standard applies.
- 103 **EXEMPTIONS:** The provisions of this rule do not apply to:
  - 103.1 Dry material transfer facilities.
  - 103.2 Water treatment facilities.

**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.~~ 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 **AFFECTED OPERATION:** An operation that processes nonmetallic minerals or that is related to such processing and process sources including, but not limited to: excavating, crushers, grinding mills, screening equipment, conveying systems, elevators, transfer points, bagging operations, storage bins, enclosed truck and railcar loading stations, and truck dumping.
- 202 **AGGREGATE TRUCK:** Any truck with an open top used to transport the products of nonmetallic mineral processing plants ~~and/or rock product processing plants.~~
- 203 **APPROVED EMISSION CONTROL SYSTEM (ECS):** A system for reducing particulate emissions, consisting of collection and/or control devices which are approved in writing by the Control Officer and are designed and operated in accordance with good engineering practice.
- 204 **AREA ACCESSIBLE TO THE PUBLIC:** Any ~~retail-paved~~ parking lot or ~~public-paved~~ roadway that ~~is open to~~ can be entered or used for public travel primarily for the purposes unrelated to the dust-generating operations.
- 205 **ASPHALTIC CEMENT:** The dark brown to black cementitious material (solid, semisolid, or liquid in consistency), of which the main constituents are naturally occurring bitumens or bitumens resulting from petroleum refining.
- 206 **ASPHALTIC CONCRETE PLANT/ASPHALT PLANT:** Any facility used to manufacture asphaltic concrete by mixing graded aggregate and asphaltic cements.



- 206 **207** **BAGGING OPERATION:** The mechanical process by which bags or other containers are filled with nonmetallic minerals or dry materials.
- 207 **208** **BATCH TRUCK:** Any truck that loads and transports products produced by batch.
- 208 **209** **BELT CONVEYOR:** A conveying device that transports material from one location to another by means of an endless belt that is carried on a series of idlers and routed around a pulley at each end.
- 209 **210** **BERMS AND GUARD RAILS:** ~~A pile or mound~~ Piles or mounds of material along an elevated roadway capable of moderating or limiting the force of a vehicle in order to impede the vehicle's passage over the bank of the roadway.
- ~~210~~ **211** **BLASTING OPERATIONS:** Operations that break or displace soil and/or rock by means of explosives.
- ~~211~~ **212** **BLUE SMOKE:** A combination of hydrocarbons and particulate matter that is produced when asphaltic cement is heated.
- 210 **213** **BULK MATERIAL:** Any material including, but not limited to: earth, rock, silt, sediment, sand, gravel, soil, fill, aggregate less than two inches in length or diameter (i.e., aggregate base course (ABC)), dirt, mud, demolition debris, cotton, trash, cinders, pumice, saw dust, feeds, grains, fertilizers, fluff (from shredders), and dry concrete, that is capable of producing fugitive dust.
- ~~211~~ **214** **CEMENT:** A powder consisting of, but not limited to, alumina, silica, lime, iron oxide, and/or magnesium oxide burned together in a kiln and finely pulverized and used as an ingredient of mortar, concrete, and/or other similar product including, but not limited to, any hydraulic cement such as Portland cement.
- 214 **215** **COHESIVE HARD SURFACE:** ~~Any material including, but not limited to: pavement, recycled asphalt mixed with a binder, or a dust suppressant other than water applied and maintained as a roadway surface.~~ One of the following materials applied and maintained as a roadway surface:
  - 215.1** Pavement, including but not limited to, asphalt, concrete, asphaltic concrete, concrete pavement, chip seal, or rubberized asphalt.
  - 215.2** Recycled asphalt mixed with a binder.
  - 215.3** Continuous gravel cover which is at least six inches deep to which water is applied during the workday.
  - 215.4** A dust suppressant other than water, which is applied in accordance with the methods and frequencies specified in the approved Dust Control Plan, which produces or creates a mass in which the soil particles are tightly and uniformly stuck together such that visible emissions are not produced by wind blowing across the surface or by motor vehicles or equipment driving on the surface.
  - 215.5** Another material, which is applied and maintained in accordance with the approved Dust Control Plan, which creates a roadway surface such that visible emissions are not produced by wind blowing across the surface or by motor vehicles or equipment driving on the surface.
- 212 **216** **CONCRETE PLANT:** Any facility used to manufacture concrete by mixing water, aggregate, and cement.
- 213 **217** **CONVEYING SYSTEM:** A device for transporting materials from one piece of equipment or location to another location within a facility. Conveying systems include, but are not limited to: feeders, belt conveyers, bucket elevators and pressure control systems.
- 214 **218** **CRUSHER:** A machine used to crush ~~any~~ nonmetallic minerals or products made with nonmetallic minerals including, but not limited to, the following types: jaw, gyratory, cone, roll, rod mill, hammermill, and impactor.
- ~~215~~ **219** **DELIVERY TRUCK:** Any truck (including any non-motorized attachment to a truck, such as a trailer or other conveyance connected to or propelled by the actual motorized portion of the truck) that holds, stores, or delivers products or materials to or from nonmetallic mineral processing or any related operations.
- 215 **220** **DISTURBED SURFACE AREA:** A portion of the earth's surface (or material placed thereupon) which has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition ~~thereby increasing~~ if the potential for the emission of fugitive dust is increased by the movement, destabilization, or modification.



- 221 **221** **DRY MATERIAL:** Cement, fly ash, lime, and other pozzolan materials to which water or other liquids have not been added.
- 246 **222** **DRY MIX CONCRETE PLANT:** Any facility used to manufacture a mixture of aggregate and cements without the addition of water.
- 247 **223** **DUST-GENERATING OPERATION:** Any activity capable of generating fugitive dust including, but not limited to: land clearing, earthmoving, weed abatement by discing or blading, excavating, construction, demolition, bulk material handling, storage and/or transporting operations, vehicle use and movement, the operation of any outdoor equipment, or unpaved parking lots. For the purpose of this rule, landscape maintenance and playing on or maintaining a field used for non-motorized sports shall not be considered a dust-generating operation. However, landscape maintenance shall not include grading, trenching, or any other mechanized surface disturbing activities performed to establish initial landscapes or to redesign existing landscapes.
- 248 **224** **DUST SUPPRESSANT:** Water, hygroscopic material, solution of water and chemical surfactant, foam, non-toxic chemical stabilizer, or any other dust palliative, which is not prohibited for ground surface application by the EPA or the Arizona Department of Environmental Quality (ADEQ), or any applicable law, rule, or regulation, as a treatment material for reducing fugitive dust emissions.
- 249 **225** **ENCLOSED TRUCK OR RAILCAR LOADING STATION:** That portion of a nonmetallic mineral processing plant where nonmetallic mineral are loaded by an enclosed conveying system into enclosed trucks or railcars.
- 220 **226** **END OF WORK DAY:** The end of a working period that may include one or more work shifts. If working 24 hours a day, the end of a working period ~~shall be~~ is considered no later than 8 pm.
- 224 **227** **FABRIC FILTER BAGHOUSE:** ~~Tube shaped filter bags—long small diameter fabric tubes referred to as "bags" arranged in parallel flow paths and designed to separate particles and flue gas.~~ A device in which particulates are removed from the stream of exhaust gases using permeable fabric bags.
- 228** **FACILITY:** All the pollutant-emitting equipment and activities that are located on one or more contiguous or adjacent properties, and that are under the control of the same person or persons under common control.
- 229** **FLY ASH:** Any product of coal combustion that is recovered for use as a cement or lime additive, absorbent, gas scrubber, plastics filler or any other beneficial use and that is exempt from regulation as a hazardous waste under 40 CFR 261.4.
- 222 **230** **FREEBOARD:** The vertical distance between the top edge of a cargo container area and the highest point at which the bulk material contacts the sides, front, and back of a cargo container area.
- 223 **231** **FUGITIVE DUST CONTROL MEASURE:** A technique, practice, or procedure used to prevent or minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust.
- 224 **232** **FUGITIVE DUST CONTROL TECHNICIAN:** A person with the authority to expeditiously employ sufficient fugitive dust control measures to ensure compliance with ~~Rule 316 of these rules~~ this rule at an active operation a facility where nonmetallic mineral processing or any related operations occur.
- 225 **233** **FUGITIVE DUST EMISSION:** Particulate matter not collected by a capture system that is entrained in the ambient air and is caused from human and/or natural activities.
- 234** **GRAVEL PAD:** A layer of washed gravel, rock, or crushed rock, which is at least one inch or larger in diameter and at least six inches deep. A Gravel pad shall be at least 30 feet wide, and 50 feet long or the length of the longest haul truck, whichever is greater, with a stabilizing mechanism/device (i.e., curbs or structural devices along the perimeter of the gravel pad), and shall dislodge mud, dirt, and/or debris from the tires of motor vehicles and/or haul trucks, prior to leaving a facility. If an unpaved surface exit does not have adequate width to install a 30-foot wide gravel pad, then the width of the gravel pad shall cover the full width of the unpaved surface exit and such shorter width shall be adequate to prevent trackout.
- 226 **235** **GRINDING MILL:** A machine used for the wet or dry fine crushing of any nonmetallic mineral. Grinding mills include, but are not limited to, the following types: hammer, roller, rod, pebble and ball, and fluid energy. The grinding mill includes the air conveying system, air separator, or air classifier, where such systems are used.
- 227 **236** **HAUL/ACCESS ROAD:** Any ~~on-site~~ unpaved road that is used by haul trucks to carry materials from the quarry or pit to different locations within the facility. For the purpose of this ~~definition~~ rule, haul/access roads are not in permanent areas of a facility.



- 228 **237** **HAUL TRUCK:** Any fully or partially open-bodied self-propelled vehicle including any non-motorized attachments, such as but not limited to: trailers or other conveyances that are connected to or propelled by the actual motorized portion of the vehicle used for transporting bulk materials.
- 229 **238** **INFREQUENT OPERATIONS:** Operations that have state mine identification, approved reclamation plans and bonding as required by State Mining and Reclamation Act of 1975, and only operate on an average of 52 days per year over the past three years ~~from June 8, 2005.~~
- 239** **LIME:** Any calcinated limestone including, but not limited to, hydraulic lime.
- ~~230 **239** **MATERIAL DELIVERY TRUCK:** Any truck that loads and transports product to customers.~~
- 240** **MATERIAL STORAGE AND SILO LOADING OPERATIONS:** Any combination of processes or equipment used for storing dry materials and/or loading dry materials into silos.
- 231 **241** **MIXER TRUCK:** Any truck that mixes cement and other ingredients in a drum to produce concrete.
- 232 **242** **MOTOR VEHICLE:** A self-propelled vehicle for use on the public roads and highways of the State of Arizona and required to be registered under the Arizona State Uniform Motor Vehicle Act, including any non-motorized attachments, such as but not limited to: trailers or other conveyances which are connected to or propelled by the actual motorized portion of the vehicle.
- 233 **243** **NEW FACILITY:** A facility subject to this rule that has not been operated by such facility prior to that commenced nonmetallic mineral processing or any related operations on or after June 8, 2005. A facility that commenced nonmetallic mineral processing or any related operations before June 8, 2005 does not become a new facility due to the addition of new equipment, processes, or operations.
- 234 **244** **NONMETALLIC MINERAL:** Any of the following minerals or any mixture of which the majority is any of the following minerals:
  - 234.1 **244.1** Crushed and broken stone, including limestone, dolomite, granite, rhyolite, traprock, sandstone, quartz, quartzite, marl, marble, slate, shale, oil shale, and shell.
  - 234.2 **244.2** Sand, ~~and~~ gravel and quarried rocks.
  - 234.3 **244.3** Clay including kaolin, fireclay, bentonite, fuller's earth, ball clay, and common clay.
  - 234.4 **244.4** Rock salt.
  - 234.5 **244.5** Gypsum.
  - 234.6 **244.6** Sodium compounds including sodium carbonate, sodium chloride, and sodium sulfate.
  - 234.7 **244.7** Pumice.
  - 234.8 **244.8** Gilsonite.
  - 234.9 **244.9** Talc and pyrophyllite.
  - 234.10 **244.10** Boron including borax, kernite, and colemanite.
  - 234.11 **244.11** Barite.
  - 234.12 **244.12** Fluorspar.
  - 234.13 **244.13** Feldspar.
  - 234.14 **244.14** Diatomite.
  - 234.15 **244.15** Perlite.
  - 234.16 **244.16** Vermiculite.
  - 234.17 **244.17** Mica.
  - 234.18 **244.18** Kyanite including andalusite, sillimanite, topaz, and dumortierite.
  - 234.19 **244.19** Coal.
- 235 **245** **NONMETALLIC MINERAL PROCESSING PLANT:** Any facility utilizing any combination of equipment or machinery to mine, excavate, separate, combine, crush, or grind any nonmetallic mineral including, but not limited to: lime plants, ~~coal fired power plants,~~



steel mills, asphalt plants, concrete plants, ~~Portland cement plants~~, raw material storage and distribution, and sand and gravel plants. ~~Rock Product Processing Plants are included in this definition.~~

- 236 **246** **OPEN STORAGE PILE:** Any accumulation of bulk material with a 5% or greater silt content that has a total surface area of 150 square feet or more and that at any one point attains a height of three feet. Silt content ~~shall be~~ is assumed to be 5% or greater unless a person can show, by testing in accordance with ASTM Method C136-06 or other equivalent method approved in writing by the Control Officer and the Administrator, that the silt content is less than 5%. For the purpose of this rule, the definition of open storage pile does not include berms ~~and guard rails~~ that are installed to comply with 30 Code of Federal Regulations (CFR) 56.93000.
- 237 **247** **OVERBURDEN REMOVAL OPERATION:** An operation that removes and/or strips soil, rock, or other materials that lie above a natural nonmetallic mineral deposit and/or in-between a natural nonmetallic mineral deposit.
- 248** **OVERFLOW WARNING SYSTEM/DEVICE:** A properly functioning system or device that sends a signal indicating that the level of material in a silo is approaching or at maximum capacity. The system/device shall be designed to automatically stop silo filling operations, or alert the operator(s) to stop the loading operation, when the level of material in a silo is approaching or at maximum capacity.
- 238 **249** **PARTICULATE MATTER EMISSIONS:** Any and all finely divided solid or liquid materials other than uncombined water released to the ambient air as measured by the applicable state and federal test methods.
- 239 **250** **PAVE:** To apply and maintain asphalt, concrete, or other similar material ~~to a roadway surface (i.e., including, but not limited to,~~ asphaltic concrete, concrete pavement, chip seal, rubberized asphalt, or recycled asphalt mixed with a binder, to the surface of a roadway or parking lot.
- 240 **251** **PERMANENT AREAS OF A FACILITY:** Areas that remain in-place for 180 days or more in 12 consecutive months. Permanent areas of a facility include the following areas: entrances, exits, parking areas, office areas, warehouse areas, maintenance areas (not including maintenance areas that are in the quarry or pit), concrete plant areas, asphaltic plant areas, and roads leading to and from such areas.
- 252** **PERMANENT FACILITY:** Any facility that remains in-place for 180 days or more in 12 consecutive months.
- 241 **~~PORTLAND CEMENT PLANT~~** ~~—Any facility that manufactures Portland Cement using either a wet or dry process.~~
- 253** **POZZOLAN:** Any of finely divided siliceous or siliceous and aluminous materials that react chemically with slaked lime at ordinary temperature and in the presence of moisture to form a strong, slow-hardening cement.
- 242 **254** **PRESSURE CONTROL SYSTEM:** System in which loads are moved in the proper sequence, at the correct time, and at the desired speed through the use of valves that control the direction of air flow, regulate actuator speed, ~~and or~~ respond to changes in air pressure.
- 243 **255** **PROCESS:** One or more operations including those using equipment and technology in the production of goods or services or the control of by-products or waste.
- 244 **256** **PROCESS SOURCE:** The last operation of a process or a distinctly separate process which produces an air contaminant and which is not a pollution abatement operation.
- 245 **257** **PRODUCTION WORK SHIFT:** An eight-hour operating period based on the 24-hour operating schedule.
- 246 **~~PUBLIC ROADWAYS~~** ~~—Any roadways that are open to public travel.~~
- 258** **RELATED OPERATIONS:** The use, handling, or storage of dry materials or nonmetallic minerals at a facility that produces other products or materials, or the preparation and maintenance of a facility subject to this rule. Related operations may include, but are not limited to:
  - 258.1** Asphaltic concrete plants, asphalt plants, concrete plants, and dry mix concrete plants.
  - 258.2** Material storage and silo loading operations that occur at asphaltic concrete plants, asphalt plants, concrete plants, and dry mix concrete plants.
  - 258.3** Bagging operations.



258.4 Handling, processing, or disposal of returned products.

258.5 Processing of materials made with nonmetallic minerals or dry materials, including, but not limited to, concrete crushing.

258.6 Installing, constructing, or maintaining unpaved roads, parking lots, or pads for processing equipment at a facility subject to this rule.

258.7 Dust-generating operations that occur at a facility subject to this rule.

258.8 Blasting operations.

247 259 **RETURNED PRODUCTS:** Left-over concrete or asphalt products that were not used at a job site and were returned to the facility.

248 260 **RUMBLE GRATE:** ~~A system where the vehicle is vibrated while traveling over grates with the purpose of removing dust and other debris.~~ A system that produces a vibration such that mud, dirt, and/or debris are shaken off the tires and the exterior surfaces of a motor vehicle as a motor vehicle passes over the system. The minimum length of a rumble grate shall be 20 feet in the direction of vehicle travel or the circumference of the largest tire of a motor vehicle as a motor vehicle passes over such rumble grate, whichever is greater. The width of a rumble grate shall cover the full width of the exit. A rumble grate shall consist of raised dividers (e.g., rails, pipes, or grates), which shall meet all of the following specifications:

260.1 The height of each divider shall measure no less than three inches;

260.2 The width of each divider shall measure no more than four inches; and

260.3 The distance between each divider (i.e., from the outer edge of a divider to the outer edge of a divider next to such divider) shall measure no less than six inches.

261 **SATURATED MATERIAL:** Mineral material with sufficient surface moisture such that particulate matter emissions are not generated from processing of the material through screening operations, bucket elevators, and belt conveyors. Material that is wetted solely by wet suppression systems is not considered to be "saturated" for the purpose of this rule.

249 262 **SCREENING OPERATION:** A device (such as a shaker screen) that mechanically separates material according to its size by passing undersize material through one or more mesh surfaces (screens) in series and retaining oversize material on the mesh surfaces (screens).

250 263 **SILO:** An elevated storage container with or without a top that releases material thru the bottom.

251 264 **SILT:** Any aggregate material with a particle size less than 75 micrometers in diameter, which passes through a No. 200 sieve.

252 265 **SPILLAGE:** ~~Any quantity of nonmetallic minerals/materials that spill.~~ Material caused or allowed, intentionally or unintentionally, to flow, run, or fall out, over or off of vehicles or equipment, while being processed or after having been processed by an affected operation, where such spilled nonmetallic minerals/materials can have the potential to generate or cause fugitive dust emissions.

253 266 **STACK EMISSIONS:** ~~The particulate matter emissions.~~ Emissions that are released to the atmosphere from a capture system through a building vent, stack or other point source discharge, including particulate matter or other emissions which have the potential to become particulate matter when released into the atmosphere and combined with other emissions from the same source.

254 267 **STAGING AREA:** A place where aggregate trucks and mixer trucks temporarily queue for their loading or unloading.

268 **STORAGE BIN:** A facility enclosure, hopper, silo, or surge bin for the storage of nonmetallic minerals or products made with nonmetallic minerals prior to further processing or loading.

255 **TEMPORARY FACILITY** ~~—A facility that occupies a designated site for not more than 180 days in a calendar year.~~

256 269 **TRACKOUT:** ~~Any and all bulk materials that have the potential to produce fugitive dust and to adhere to and agglomerate on the surfaces of motor vehicles, haul trucks, and/or equipment (including tires) and that have fallen or been deposited onto an paved area accessible to the public.~~

257 270 **TRACKOUT CONTROL DEVICE:** A gravel pad, grizzly, wheel washer, rumble grate, paved area, truck washer, or other equivalent trackout control device located at the point of intersection of an unpaved area and an ~~un~~ paved area accessible to the public that controls and



prevents trackout and/or removes particulate matter from tires and the exterior surfaces of aggregate trucks, haul trucks, and/or motor vehicles that traverse a facility.

**271** TRANSFER FACILITY: A facility that exclusively receives, stores, and distributes dry materials that remain within enclosed systems (such as hoses and silos) at all times.

**258** **272** TRANSFER POINT: A point in a conveying operation system where nonmetallic mineral is materials are transferred from or to a belt conveyor, except for transfer to a stockpile.

**259** **273** TRUCK DUMPING: The unloading of nonmetallic minerals or products made with nonmetallic minerals from movable vehicles designed to transport nonmetallic minerals or products made with nonmetallic minerals from one location to another. Movable vehicles include, but are not limited to: trucks, front end loaders, skip hoists, and railcars.

**260** **274** TRUCK WASHER: A system that is used to wash the entire surface and the tires of a truck.

**275** UNPAVED PARKING LOT: Any area that is not paved and that is designated for parking or storing motor vehicles and equipment in the Dust Control Plan or that is used for parking or storing motor vehicles and equipment.

**261** **276** UNPAVED ROAD: Any roads, equipment paths, or travel ways that are not covered by typical roadway materials. Public unpaved roads are any unpaved roadway owned by federal, state, county, municipal, or governmental or quasigovernmental agencies. Private unpaved roads are all other unpaved roadways not defined as public. Any road or equipment path that is not paved. For the purpose of this rule, an unpaved road is not a horse trail, hiking path, bicycle path, or other similar path used exclusively for purposes other than travel by motor vehicles.

**262** **277** VENT: An opening through which there is mechanically or naturally induced air flow for the purpose of exhausting air carrying particulate matter.

**278** WET MATERIAL PROCESSING OPERATION: Either of the following:

**278.1** Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors in the production line that process saturated materials up to the next crusher, grinding mill, or storage bin in the production line; or

**278.2** Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations that process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.

**279** WET MINING OPERATION: A mining or dredging operation designed and operated to extract any nonmetallic mineral from deposits existing at or below the water table, where the nonmetallic mineral is saturated with water.

**280** WET SCREENING OPERATION: A screening operation which removes unwanted material or which separates marketable fines from the product by a washing process which is designed and operated at all times such that the product is saturated with water.

**263** **281** WHEEL WASHER: A system that is capable of washing the entire circumference of each wheel of the vehicle.

**282** WIND-BLOWN DUST: Visible emissions, from any disturbed surface area, process source, or operation, which are generated by wind action alone.

**264** WIND EVENT — When the 60 minute average wind speed is greater than 25 miles per hour.

**SECTION 300 – STANDARDS**

**301 CRUSHING AND SCREENING – PROCESS EMISSION LIMITATIONS AND CONTROLS:**

**301.1** Process Emission Limitations: The owner and/or operator. An owner, operator, or person subject to this rule shall not discharge, or cause, or allow to be discharged into the ambient air:

- a. Stack emissions; exceeding 7% opacity and containing more than 0.02 grains/dry standard cubic foot (gr/dscf) (50 mg/dsem) of particulate matter.

**(1)** Exceeding 7% opacity; or



- (2) Containing more than 0.014 grains/dry standard cubic foot (gr/dscf) of particulate matter.
- b. Fugitive dust emissions exceeding 7% opacity from any transfer point on a conveying system the applicable opacity limits in Table 1.

**TABLE 1**

**FUGITIVE DUST EMISSION LIMITS FOR CRUSHING AND SCREENING**

<b><u>EMISSION SOURCE</u></b>	<b><u>OPACITY LIMITS</u></b>	
	<b><u>At a facility that commenced construction, modification, or reconstruction</u></b>	
	<b><u>Before April 22, 2008</u></b>	<b><u>On or after April 22, 2008</u></b>
<b><u>(1) Any transfer point on a conveying system</u></b>	<b><u>7%</u></b>	<b><u>7%</u></b>
<b><u>(2) Any crusher</u></b>	<b><u>15%</u></b>	<b><u>12%</u></b>
<b><u>(3) Truck dumping directly into any screening operation, feed hopper, or crusher</u></b>	<b><u>20%</u></b>	<b><u>20%</u></b>
<b><u>(4) Any other affected operation or process source</u></b>	<b><u>10%</u></b>	<b><u>7%</u></b>

- e. Fugitive dust emissions exceeding 15% opacity from any crusher.
- d. Fugitive dust emissions exceeding 10% opacity from any affected operation or process source, excluding truck dumping.
- e. Fugitive dust emissions exceeding 20% opacity from truck dumping directly into any screening operation, feed hopper, or crusher. Opacity observations to determine compliance with this section of this rule shall be conducted in accordance with the techniques specified in Appendix C Fugitive Dust Test Methods of these rules.

**301.2 Controls:** ~~The owner and/or operator~~ An owner, operator, or person subject to this rule shall implement process controls described in Section 301.2(a), Section 301.2(b), and Section 301.2(c), and Section 301.2(d) of this rule or shall implement process controls described in Section 301.2(a) and Section ~~301.2(d)~~ 301.2(e) of this rule:

- a. Enclose sides of all shaker screens.
- b. Permanently mount watering systems (e.g., including, but not limited to, spray bars, a fogging system, or a misting system or an equivalent control) on all of the points listed below, for crushers, shaker screens, and material transfer points, excluding wet material processing operations:
  - (1) At every location of fugitive dust emissions from all crushers including, but not limited to, the inlet and outlet of all crushers;
  - (2) At the outlet of all shaker screens; and
  - (3) ~~Outlet of~~ At all material transfer points, excluding transfer points located within a surge tunnel; and wet plants.
  - (4) At the exit of each surge tunnel, unless a watering system is permanently mounted at all transfer points within the surge tunnel.
- c. Operate watering systems, as necessary, (e.g., spray bars or an equivalent control) on the points listed in Section 301.2(b) of this rule for crushers, shaker screens, and material transfer points, excluding wet plants, to continuously maintain a 4% the applicable minimum moisture content listed below. Compliance shall be demonstrated by conducting moisture testing as specified in Section 312 of this rule.
  - (1) 2% minimum moisture content at all points in a process line where washed feed products are directly feeding a hot mix asphalt plant;
  - (2) 2.5% minimum moisture content at all points in a process line where unwashed feed products are directly feeding a hot mix asphalt plant; and



- ~~(3) 4% minimum moisture content at all other points in a process line, unless an alternative minimum moisture content has been approved by the Control Officer and the Administrator.~~
- ~~(4) An alternative minimum moisture content requested in a permit application and approved by the Control Officer and the Administrator prior to implementation. When requesting an alternative minimum moisture content, the owner, operator, or person subject to this rule shall submit to the Control Officer documentation that justifies the alternative minimum moisture content. Documentation may include, but is not limited to: economic analyses, emissions rates, water availability, and technical feasibility.~~
- ~~(1) The watering systems shall be maintained in good operating condition, as verified by daily inspections.~~
- ~~(2) The owner and/or operator shall investigate and correct any problems before continuing and/or resuming operations.~~
- ~~(3) The owner and/or operator shall conduct soil moisture tests as follows:
 
  - ~~(a) If the owner and/or operator is required to have in place a Fugitive Dust Control Technician according to Section 309 of this rule, then soil moisture tests shall be conducted twice daily in accordance with the test methods described in Section 502 of this rule.~~
  - ~~(b) If the owner and/or operator is not required to have in place a Fugitive Dust Control Technician according to Section 309 of this rule, then soil moisture tests shall be conducted daily in accordance with the test methods described in Section 502 of this rule.~~
  - ~~(c) If the owner and/or operator demonstrates that the 4% minimum moisture content is maintained for a minimum of four weeks, then soil moisture tests may be conducted weekly in accordance with the test methods described in Section 502 of this rule.~~
  - ~~(d) If the owner and/or operator fails to comply with the opacity limitations described in Section 301.1, Section 306.1, or Section 306.2 of this rule and/or if two consecutive soil moisture tests are below 4%, then the owner and/or operator shall conduct soil moisture tests in accordance with Section 301.2(c)(3)(a) or Section 301.2(e)(3)(b) of this rule, as applicable.~~
  - ~~(e) If the owner and/or operator of a facility complies with both of the following requirements, then the number of sampling points identified in Section 502.3(e)(1) through (3) of this rule may be reduced:
 
    - ~~(i) A soil moisture test is conducted in accordance with the test methods described in Section 502 of this rule at the primary crusher, which indicates that at least a 5% minimum moisture content is maintained; and~~
    - ~~(ii) A demonstration that complies with Section 502.3(d) of this rule is submitted to and approved by the Control Officer and is complied with in accordance with Section 502.3(d) of this rule.~~~~~~
- ~~(4) The owner and/or operator may request in a permit application, with explanation, an alternative plan that justifies a minimum moisture content other than 4% and that justifies conducting fewer soil moisture tests as are required. In the request, the owner and/or operator shall submit to the Control Officer documentation regarding a minimum moisture content other than 4%, including, but not limited to: economics, emissions rates, water availability, and technical feasibility. In addition, the owner and/or operator shall demonstrate that the proposed alternative compliance demonstration plan will be equivalent in determining compliance with the soil moisture content requirements. Prior approval from the Control Officer and the Administrator shall be received before implementing the plan.~~
- ~~d. Maintain watering systems in good operating condition, as verified by daily inspections on days when process equipment is operating, and investigate and correct any problems before continuing and/or resuming operation of process equipment.~~
- ~~e. Enclose and exhaust the regulated process to a properly sized fabric filter baghouse.~~

**302 ASPHALTIC CONCRETE PLANTS – PROCESS EMISSION LIMITATIONS AND CONTROLS:**

**302.1 Process Emission Limitations:** ~~The owner and/or operator~~ An owner, operator, or person subject to this rule shall not discharge, or cause, or allow to be discharged into the ambient air:



a. ~~For~~ When producing non-rubberized asphaltic concrete plants, stack emissions: ~~exceeding 5% opacity and containing more than 0.04 gr/dscf (90 mg mg/dscm) of particulate matter.~~

(1) Exceeding 5% opacity; or

(2) Containing more than 0.04 gr/dscf (90 mg mg/dscm) of particulate matter.

b. ~~For~~ When producing rubberized asphaltic concrete, stack emissions: ~~plants (when producing rubberized asphalt only), stack emissions exceeding 20% opacity and containing more than 0.04 gr/dscf (90 mg/dscm) of particulate matter.~~

(1) Exceeding 20% opacity; or

(2) Containing more than 0.04 gr/dscf (90 mg/dscm) of particulate matter;

c. When producing rubberized asphaltic concrete, fugitive emissions of blue smoke from the drum dryer exceeding 20% opacity.

e. d. Fugitive dust emissions exceeding 10% opacity from any affected operation, or process source, excluding truck dumping.

e. Fugitive dust emissions exceeding 20% opacity from truck dumping directly into any asphalt plant feed hopper.

302.2 ~~Controls: The owner and/or operator~~ An owner, operator, or person subject to this rule shall, from all drum dryers, control and vent exhaust from all drum dryers to a properly sized fabric filter baghouse.

303 ~~RAW MATERIAL STORAGE AND SILO LOADING OPERATIONS, DISTRIBUTION, CONCRETE PLANTS, AND/OR BAGGING OPERATIONS – PROCESS EMISSION LIMITATIONS AND CONTROLS:~~

303.1 ~~Process Emission Limitations: The owner and/or operator~~ An owner, operator, or person subject to this rule shall not discharge or cause or allow to be discharged into the ambient air:

a. ~~Stack emissions exceeding 5% opacity;~~ or

b. ~~Fugitive dust emissions exceeding 10% opacity from any affected operation, or process source, excluding truck dumping.~~

303.2 ~~Controls: The owner and/or operator~~ An owner, operator, or person subject to this rule shall implement the following process controls:

a. ~~On all cement, lime, and/or fly ash dry material storage silo(s), install and operate an operational overflow warning system/device. The system/device shall be designed to alert operator(s) to stop the loading operation when the cement, lime, and/or fly ash storage silo(s) are reaching a capacity that could adversely impact pollution abatement equipment.~~

b. ~~On new cement, lime, and/or fly ash~~ all dry material storage silos installed after June 8, 2005, install a properly sized fabric filter baghouse or equivalent device designed to meet a maximum outlet grain loading of 0.01 gr/dscf.

c. ~~On dry mix concrete plant loading stations,~~ when loading truck mixed product, implement one of the following process controls:

(1) Install and use a rubber fill tube;

(2) Install and operate a water spray;

(3) Install and operate a properly sized fabric filter baghouse or delivery system;

(4) Enclose mixer loading stations such that no visible emissions occur; or

(5) Conduct mixer loading stations in an enclosed process building such that no visible emissions from the building occur during the mixing activities.



- d. ~~On each cement storage silo filling processing/loading operations controls, install a pressure control system designed to shut-off the cement silo filling processes/loading operations, if pressure from the delivery truck is excessive, as defined in the approved Operation and Maintenance (O&M) Plan.~~
- e. On each dry material storage silo filling process/loading operation installed after [insert date of rule adoption], install a pressure control system designed to shut-off the silo filling process/loading operation if pressure from the delivery truck is excessive, as defined in the approved O&M Plan.

**304 OTHER ASSOCIATED OPERATIONS:** ~~All other affected operations or process sources not specifically listed in Sections 301, 302, or 303 of this rule associated with the processing of nonmetallic minerals, all other fugitive dust emission limitations not specifically listed in Section 306 of this rule, all other fugitive dust control measures not specifically listed in Section 307 of this rule, and all overburden operations shall, at a minimum, meet the provisions of Rule 310 of these rules.~~

**304.1** For all dust-generating operations not specifically listed in Sections 301, 302, or 303 of this rule, the owner, operator, or person subject to this rule shall implement fugitive dust control measures to comply with Section 306 and Section 307 of this rule.

**304.2** Dust-generating operations at a facility subject to the requirements of this rule shall not commence until the owner, operator, or person subject to this rule has obtained an air pollution control permit in accordance with Rule 200 of these rules.

**304.3** Dust-generating operations that occur before or while portable equipment subject to the requirements of this rule is located at a facility shall not commence until the owner, operator, or person subject to this rule has obtained an air pollution control permit and submitted a move notice in accordance with Rule 200 of these rules.

- a. With each portable source move notice, the owner, operator, or person subject to this rule shall submit, to the Control Officer, a Dust Control Plan that meets the requirements of Section 311 of this rule.
- b. With each portable source move notice, the owner, operator, or person subject to this rule shall submit, to the Control Officer, an O&M Plan that meets the requirements of Section 305 of this rule.

**305 AIR POLLUTION CONTROL EQUIPMENT AND APPROVED EMISSION CONTROL SYSTEM (ECS):** ~~An owner, operator, or person subject to this rule and/or operator of a facility shall provide, properly install and maintain in calibration, in good working order, and in operation air pollution control equipment required by this rule. When selecting air pollution control equipment required by this rule, the owner, operator, or person subject to this rule and/or operator of a facility may consider the site-specific and/or material-specific conditions and logistics of a facility. When doing so, some air pollution control equipment may be more reasonable to implement than others. Regardless, any air pollution control equipment that is installed must achieve the applicable standard(s) required by this rule, as determined by the corresponding test method(s), as applicable, and must achieve other applicable standard(s) set forth in this rule. The owner, operator, or person subject to this rule and/or operator of a facility may submit a request to the Control Officer and the Administrator for the use of alternative air pollution control equipment. The request shall include the proposed alternative air pollution control equipment, the air pollution control equipment that the alternative would replace, and a detailed statement or report demonstrating that the air pollution control equipment would result in equivalent or better emission control than the equipment prescribed in this rule. Nothing in this rule shall be construed to prevent an owner, operator, or person subject to this rule and/or operator of a facility from making such demonstration. Following a decision by the Control Officer and the Administrator to grant the petition, the owner, operator, or person subject to this rule facility shall incorporate the alternative air pollution control equipment in any required Operation and Maintenance (O&M) Plan.~~

**305.1 Operation and Maintenance (O&M) Plan Requirements for an ECS:** For each ECS that is used to comply with this rule or an air quality permit, the owner, operator, or person subject to this rule shall:

- a. ~~An owner and/or operator of a facility shall provide and maintain, readily available on site at all times, (an) O&M Plan(s) for any ECS, any other emission processing equipment, and any ECS monitoring devices that are used pursuant to this rule or to an air pollution control permit. Submit to the Control Officer for approval an O&M Plan for each ECS and for each ECS monitoring device that is used pursuant to this rule or an air pollution control permit. The O&M Plan(s) shall include all of the following information:~~

- (1) ECS equipment manufacturer name and model designation;
- (2) ECS equipment serial number, or a unique identifier assigned by the owner; and



(3) Key system operating parameters, such as temperatures, pressures and/or flow rates, necessary to determine the ECS is functioning properly and operating within design parameters, as well as the acceptable operating range, monitoring frequency, and recording method for each operating parameter.

(4) Descriptions of maintenance procedures that will be performed on each ECS and ECS monitoring device and the frequency of each maintenance procedure.

- b. ~~The owner and/or operator of a facility shall submit to the Control Officer for approval the O&M Plan(s) for each ECS and for each ECS monitoring device that is used pursuant to this rule. Provide and maintain, readily available on-site at all times, the approved O&M Plan(s) for each ECS and each ECS monitoring device that is used pursuant to this rule or to an air pollution control permit.~~
- c. ~~The owner and/or operator of a facility shall comply with all the identified actions and schedules provided in each O&M Plan. Install, maintain, and accurately calibrate monitoring devices described in the approved O&M Plan(s). The monitoring devices shall measure pressures, rates of flow, and/or other operating conditions necessary to determine if the control devices are functioning properly.~~
- d. Fully comply with all the identified actions and schedules provided in each O&M Plan.
- e. Upon receipt of written notice from the Control Officer that an O&M Plan is deficient or inadequate, submit a revised O&M Plan to the Control Officer within 5 working days of receipt of the Control Officer’s written notice, unless such time period is extended by the Control Officer, upon written request, for good cause. During the time that the owner, operator, or person subject to this rule is preparing revisions to the O&M Plan, the owner, operator, or person subject to this rule shall comply with all requirements of this rule.

305.2 Operation and Maintenance (O&M) Plan Requirements for Dust Control Measures:

- a. ~~An owner and/or operator of a facility shall provide and maintain, readily available on site at all times, (an) O&M Plan(s) for equipment associated with any process fugitive emissions and fugitive dust control measures (i.e., gravel pads, wheel washers, truck washers, rumble grates, watering systems, and street sweepers) that are implemented to comply with this rule or an air pollution control permit.~~
- b. ~~The owner and/or operator of a facility shall comply with all the identified actions and schedules provided in each O&M Plan.~~

305.3 ~~Providing and Maintaining ECS Monitoring Devices: An owner and/or operator of a facility operating an ECS pursuant to this rule shall install, maintain, and calibrate monitoring devices described in the O&M Plan(s). The monitoring devices shall measure pressures, rates of flow, and/or other operating conditions necessary to determine if the control devices are functioning properly.~~

305.4 ~~O&M Plan Responsibility: An owner and/or operator of a facility that is required to have an O&M Plan pursuant to Section 305 of this rule must fully comply with all O&M Plans that the owner and/or operator has submitted for approval, even if such O&M Plans have not yet been approved, unless notified in writing by the Control Officer.~~

**306 FUGITIVE DUST EMISSION LIMITATIONS:** An owner, operator, or person subject to this rule shall comply with the following limitations at all times and in all areas of a site, unless otherwise specified.

**306.1 20% Opacity Limitation:** ~~For emissions that are not already regulated by an opacity limit, the owner and/or operator of a facility~~ an owner, operator, or person subject to this rule shall not discharge, or cause, or allow to be discharged into the ambient air fugitive dust emissions exceeding 20% opacity, in accordance with the test methods described in Section 503 of this rule and in Appendix C-Fugitive Dust Test Methods of these rules.

**306.2 Visible Emission Limitation Beyond Property Line:** ~~An owner, operator, or person subject to this rule and/or operator of a facility shall not discharge, cause, or allow to be discharged visible emissions of particulate matter, including fugitive dust emissions from any active operation, open storage pile, or disturbed surface area associated with such facility such that the presence of such fugitive dust emissions remain visible in the atmosphere beyond the property line of such facility within which the emissions are generated.~~



- 306.3** ~~Wind Event~~ **Wind-Blown Dust:** The fugitive dust emission limitations described in Section 306.1 and Section 306.2 of this rule shall not apply to wind-blown dust during a wind event, if the owner and/or operator of a facility owner, operator, or person subject to this rule meets the following conditions:
- a. Has implemented the fugitive dust control measures described in Section 307 of this rule, as applicable, and the fugitive dust emissions cannot be prevented by better application, operation, or maintenance of these fugitive dust control measures;
  - b. Has compiled and retained records, in accordance with Section 501.4 of this rule, ~~and has documented by records the occurrence of a wind event on the day(s) in question. The occurrence of a wind event must be determined by the nearest Maricopa County Air Quality Department monitoring station, from any other certified meteorological station, or by a wind instrument that is calibrated according to manufacturer's standards and that is located at the site being checked;~~ and
  - c. Has implemented the following ~~high wind fugitive dust~~ control measures, as applicable:
    - (1) For an active operation, implement one of the following fugitive dust control measures, ~~in accordance with the test methods described in Section 503 and Section 504 of this rule and in Appendix C Fugitive Dust Test Methods of these rules:~~
      - (a) Cease ~~active operation of any equipment or activity~~ that may contribute to an exceedance of the fugitive dust emission limitations described in Section 306.1 of this rule ~~for the duration of the wind event and, if active operation is ceased for the remainder of the work day, stabilize the area;~~ or
      - (b) ~~Before and during active operations,~~ Apply water or other suitable dust suppressant ~~other than water~~ to keep the soil visibly moist.
    - (2) For an inactive open storage pile, implement one of the following fugitive dust control measures, ~~in accordance with the test methods described in Section 503 and Section 504 of this rule and in Appendix C Fugitive Dust Test Methods of these rules:~~
      - (a) Maintain a soil crust by applying water or other suitable dust suppressant ~~other than water~~ or by implementing another fugitive dust control measure, in sufficient quantities to meet the stabilization standards described in Section 505 of this rule.
      - (b) Cover open storage pile with tarps, plastic, or other material such that wind will not remove the covering, if open storage pile is less than eight feet high.
    - (3) For an inactive-disturbed surface area, implement one of the following fugitive dust control measures, ~~in accordance with the test methods described in Section 503 and Section 504 of this rule and in Appendix C Fugitive Dust Test Methods of these rules:~~
      - (a) Uniformly apply and maintain surface gravel or a dust suppressant other than water; or
      - (b) Maintain a soil crust by applying water or other suitable dust suppressant ~~other than water~~ or by implementing another fugitive dust control measure, in sufficient quantities to meet the stabilization standards described in Section 505 of this rule.
- 306.4** **Stabilization Standards Silt Loading and Silt Content Standards for Unpaved Roads and Unpaved Parking Lots and Unpaved Staging Areas:** ~~From unpaved roads and unpaved parking and staging areas, the owner and/or operator of a facility shall not discharge or allow to be discharged into the ambient air fugitive dust emissions exceeding 20% opacity, in accordance with the test methods described in Section 502 of this rule and in Appendix C Fugitive Dust Test Methods of these rules, and one of the following: An owner, operator, or person subject to this rule shall not allow silt loading equal to or greater than 0.33 oz/ft<sup>2</sup> for unpaved roads, unpaved parking lots, and unpaved staging areas. However, if silt loading is equal to or greater than 0.33 oz/ft<sup>2</sup>, the owner, operator, or person subject to this rule shall not allow:~~
- a. ~~For unpaved roads, silt loading equal to or greater than 0.33 oz/ft<sup>2</sup> or silt content exceeding 6%. Silt content to exceed 6% for unpaved roads; or~~
  - b. ~~For unpaved parking and staging areas, silt loading equal to or greater than 0.33 oz/ft<sup>2</sup> or silt content exceeding 8%. Silt content to exceed 8% for unpaved parking lots and staging areas.~~



**306.5 Stabilization Standards for all other areas:** An owner, operator, or person subject to this rule shall stabilize all areas of the facility, excluding unpaved roads, unpaved parking lots, and unpaved staging areas, in order to meet at least one of the standards listed below, as applicable:

- ~~a.~~ a. ~~An owner and/or operator of a facility with an open area or a disturbed surface area on which no activity is occurring (including areas that are temporarily or permanently inactive) shall be considered in violation of this rule if area is not maintained in a manner that meets at least one of the standards listed below, as applicable. Maintain visible soil moisture;~~
- ~~(1)~~ b. Maintain a soil crust;
- ~~(2)~~ c. Maintain a threshold friction velocity (TFV) for disturbed surface areas corrected for non-erodible elements of 100 cm/second or higher;
- ~~(3)~~ d. Maintain a flat vegetative cover (i.e., attached (rooted) vegetation or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind) that is equal to at least 50%;
- ~~(4)~~ e. Maintain a standing vegetative cover (i.e., vegetation that is attached (rooted) with a predominant vertical orientation) that is equal to or greater than 30%;
- ~~(5)~~ f. Maintain a standing vegetative cover (i.e., vegetation that is attached (rooted) with a predominant vertical orientation) that is equal to or greater than 10% and where the threshold friction velocity is equal to or greater than 43 cm/second when corrected for non-erodible elements;
- ~~(6)~~ g. Maintain a percent cover that is equal to or greater than 10% for non-erodible elements; or
- ~~(7)~~ h. Comply with a standard of an alternative test method, upon obtaining the written approval from the Control Officer and the Administrator.
- ~~b.~~ i. ~~If no activity is occurring on an open storage pile and material handling or surface soils where support equipment and vehicles operate in association with such facility and if an open storage pile and material handling or surface soils where support equipment and vehicles operate in association with such a facility contains more than one type of visibly distinguishable stabilization characteristics, soil textures, vegetation, or other characteristics, which are visibly distinguishable, the owner and/or operator shall test each representative surface area will be evaluated separately for stability, in an area that represents a random portion of the overall disturbed conditions of the site, in accordance with the appropriate test methods described in Section 505 of this rule and in Appendix C-Fugitive Dust Test Methods of these rules.~~

**307 FUGITIVE DUST CONTROL MEASURES:** ~~The owner and/or operator of a nonmetallic mineral processing plant and/or a rock product processing plant~~ An owner, operator, or person subject to this rule shall implement the fugitive dust control measures described in this Sections 307.1 through 307.11 of this rule, as applicable. When selecting a fugitive dust control measure(s), the owner and/or operator of a facility ~~an owner, operator, or person subject to this rule~~ may consider the site-specific and/or material-specific conditions and logistics of a facility. When doing so, some fugitive dust control measures may be more reasonable to implement than others. Regardless, any fugitive dust control measure that is implemented must achieve the applicable standard(s) described in Section 306 of this rule, as determined by the corresponding test method(s), as applicable, and must achieve other applicable standard(s) set forth in this rule. The owner and/or operator of a facility ~~An owner, operator, or person subject to this rule~~ may submit a request to the Control Officer and the Administrator for the use of alternative control measure(s). The request shall include the proposed alternative control measure, the control measure that the alternative would replace, and a detailed statement or report demonstrating that the measure would result in equivalent or better emission control than the measures prescribed in this rule. Nothing in this rule shall be construed to prevent an owner and/or operator of a facility ~~owner, operator, or person subject to this rule~~ from making such demonstration. Following a decision by the Control Officer and the Administrator to grant the petition, the facility shall incorporate the alternative control measure in any required Dust Control Plan. When engaged in the activities described in Section 301 and Section 307.1 through Section 307.9 of this rule, the owner and/or operator of a facility shall install, maintain, and use fugitive dust control measures as described in Section 307.1 through Section 307.9 of this rule, as applicable.

**307.1 Open Storage Piles and Material Handling:** ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall implement all of the following fugitive dust control measures, as applicable. For the purpose of this rule, open storage pile(s) and material handling does not include berms and guard rails that are installed to comply with 30 CFR 56.93000. However, such berms and guard rails shall be installed and maintained in compliance with Section 306.1, Section 306.2, and Section 306.5 of this rule.



- a. Prior to, and/or while conducting ~~loading and unloading~~ loading, unloading, and excavating operations, implement one of the following fugitive dust control measures:
  - (1) Spray material with water, as necessary; or
  - (2) Spray material with a dust suppressant other than water, as necessary.
- b. When not conducting ~~loading and unloading~~ loading, unloading, and excavating operations, implement one of the following fugitive dust control measures:
  - (1) Spray material with water, as necessary;
  - (2) Maintain a 1.5% or more soil moisture content of the open storage pile(s);
  - (3) Locate open storage pile(s) in a pit/in the bottom of a pit;
  - (4) Arrange open storage pile(s) such that storage pile(s) of larger diameter products are on the perimeter and act as barriers to/for open storage pile(s) that could create fugitive dust emissions;
  - (5) Construct and maintain wind barriers, storage silos, or a three-sided enclosure with walls, whose length is no less than equal to the length of the pile, whose distance from the pile is no more than twice the height of the pile, whose height is equal to the pile height, and whose porosity is no more than 50%;~~or~~
  - (6) Cover open storage piles with tarps, plastic, or other material to prevent wind from removing the coverings; or
  - (7) Maintain a visible crust.
- c. When installing new open storage pile(s) ~~at an existing facility and/or when installing new open storage pile(s) at a new facility, the owner and/or operator~~ an owner, operator, or person subject to this rule shall implement all of the following fugitive dust control measures, ~~only if it is determined to be feasible on a case-by-case basis through the Dust Control Plan by assessing the amount of open land available at the property at the time the new open storage pile(s) are formed:~~
  - (1) Install the open storage pile(s) ~~at least 25 feet or more from the property line.~~ An owner, operator, or person subject to this rule may be allowed to install the open storage pile(s) less than 25 feet from the property line, if the owner, operator, or person subject to this rule can demonstrate to the Control Officer that there is not adequate space to install the open storage pile(s) 25 feet or more from the property line. Such demonstration shall be made in writing and approved by the Control Officer; and
  - (2) Limit the height of the open storage pile(s) to less than 45 feet.
- d. ~~For existing open storage pile(s) and when installing open storage pile(s) for an existing facility or for a new facility, if such~~ For any open storage pile(s) will be constructed over that are more than eight feet high and will not be that are not covered, then the owner and/or operator the owner, operator, or person subject to this rule shall install, use, and maintain a water truck or other method that is capable of completely wetting the surfaces of the open storage pile(s).

**307.2** ~~Surface Stabilization~~ Unpaved Parking Lots, Staging Areas, and Areas Where Support Equipment and Vehicles Operate: ~~The owner and/or operator of a facility~~ An owner, operator or person subject to this rule shall implement one of the following fugitive dust control measures on areas other than the areas identified in Section 307.3 and Section 307.4 of this rule where loaders, support equipment, and vehicles operate.

- a. Apply and maintain water;
- b. Apply and maintain a dust suppressant, other than water; or
- c. Apply and maintain a layer of washed gravel that is at least six inches deep ~~a gravel pad in compliance with Section 307.6(b)(4) of this rule.~~

**307.3** Haul/Access Roads That Are Not in Permanent Areas of a Facility:



- a. ~~The owner and/or operator of a facility~~ An owner, operator or person subject to this rule shall implement one of the following fugitive dust control measures, as applicable, before engaging in the use of, ~~or in the maintenance of,~~ haul/access roads. Compliance with the provisions of this section of this rule shall not relieve any person subject to the requirements of this section of this rule from complying with any other federally enforceable requirements (i.e., a permit issued under Section 404 of the Clean Water Act).
  - (1) Install and maintain bumps, humps, or dips for speed control and apply water, as necessary;
  - (2) Limit vehicle speeds and apply water, as necessary;
  - (3) ~~Pave~~ Install and maintain a paved surface;
  - (4) Apply and maintain a layer of washed gravel that is six inches deep ~~pad in compliance with Section 307.6(b)(4) of this rule;~~
  - (5) Apply a dust suppressant, other than water; or
  - (6) Install and maintain a cohesive hard surface.
- b. For a new facility, if it is determined that none of the fugitive dust control measures described in Section 307.3(a) of this rule can be technically and feasibly implemented, then ~~the owner and/or operator of a new facility shall~~ the owner, operator, or person subject to this rule shall maintain a ~~minimum~~ distance of 25 feet ~~or more~~ from ~~between~~ the property line ~~for~~ and haul/access roads associated with the new facility. Such determination shall be made and approved in writing by the Control Officer and the Administrator and shall be approved in the Dust Control Plan.

**307.4 On-Site Traffic:**

- a. ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall require all batch trucks and ~~material~~ delivery trucks to remain on roads with paved surfaces or cohesive hard surfaces.
- b. ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall require all aggregate trucks to remain on paved surfaces or cohesive hard surfaces, except when driving on roads leading to and from aggregate loading areas/loading operations, as approved in the Dust Control Plan.
- c. ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall require all batch trucks and ~~material~~ delivery trucks to ~~enter and~~ exit the facility/operation only through ~~entrances~~ exits that comply with the trackout control device requirements in Section 307.6 of this rule.
- d. ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall pave or install a cohesive hard surface on permanent areas of a facility on which vehicles drive, as approved in the Dust Control Plan.

**307.5 Off Site Traffic: Hauling and/or Transporting Bulk Material:** ~~When hauling and/or transporting bulk material off site, the owner and/or operator of a facility shall implement all of the following control measures:~~

- a. ~~Load all haul trucks such that the freeboard is not less than three inches;~~
- b. ~~Prevent spillage or loss of bulk material from holes or other openings in the cargo compartment's floor, sides, and/or tailgate(s); and~~
- e. ~~Cover haul trucks with a tarp or other suitable closure.~~
- a. When hauling and/or transporting bulk material off-site, an owner, operator, or person subject to this rule shall implement all of the following control measures:
  - (1) Load all haul trucks such that the freeboard is not less than three inches;
  - (2) Prevent spillage or loss of bulk material from holes or other openings in the cargo compartment's floor, sides, and/or tailgate(s); and



- (3) Cover haul trucks with a tarp or other suitable closure.
- b. When hauling and/or transporting bulk material within the boundaries of the facility, an owner, operator, or person subject to this rule shall implement one of the following control measures:
  - (1) Limit vehicle speed to 15 miles per hour or less while traveling within the facility;
  - (2) Apply water to the top of the load; or
  - (3) Cover haul trucks with a tarp or other suitable closure.
- c. When hauling and/or transporting bulk material within the boundaries of a facility and crossing or accessing an area accessible to the public, an owner, operator, or person subject to this rule shall implement all of the following control measures:
  - (1) Load all haul trucks such that the freeboard is not less than three inches;
  - (2) Prevent spillage or loss of bulk material from holes or other openings in the cargo compartment's floor, sides, and/or tailgate(s); and
  - (3) Cover haul trucks with a tarp or other suitable closure.

**307.6 Trackout Control Devices, Trackout, and Spillage:**

- a. ~~**Rumble Grate and Wheel Washer Trackout Control Devices for Facilities with 60 or More Trucks Exiting on Any Day:**~~ The owner and/or operator of a new permanent facility and the owner and/or operator ~~An owner, operator, or person subject to this rule shall install, maintain, and use a rumble grate and wheel washer, in accordance with all of the following conditions, as applicable at a of an existing permanent facility with a minimum of 60 or more aggregate trucks, mixer trucks, delivery trucks and/or batch trucks exiting a the facility on any day onto paved public roadways/paved areas accessible to the public shall install, maintain, and use a rumble grate and wheel washer, in accordance with all of the following conditions, as applicable. For the purpose of this rule, a vehicle wash and/or a cosmetic wash may be substituted for a wheel washer, provided such vehicle wash and/or cosmetic wash has at least 40 pounds per square inch (psi) water spray from the nozzle (owner and/or operator of the facility shall have a water pressure gauge available on site to allow verification of such water pressure), meets the definition of wheel washer (i.e., is capable of washing the entire circumference of each wheel of the vehicle), is operated in such a way that visible deposits are removed from the entire circumference of each wheel of the vehicle exiting the wash, is installed, maintained, and used in accordance with criteria in Section 307.6(a)(1)-(5) of this rule, and is approved in the Dust Control Plan for the facility.~~
  - (1) ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall locate a rumble grate within 10 feet from a wheel washer.
    - (a) ~~The rumble grate and wheel washer shall be located no less than 30 feet prior to each exit that leads to a paved public roadway/paved area accessible to the public and that is used by aggregate trucks, mixer trucks, delivery trucks, and/or batch trucks.~~
    - (b) ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule may be allowed to install a rumble grate and wheel washer less than 30 feet prior to each exit if the owner and/or operator of a facility ~~owner, operator, or person subject to this rule can demonstrate to the Control Officer that there is not adequate space to install a rumble grate and wheel washer no less than 30 feet prior to each exit and that a rumble grate and wheel washer at a shorter distance will be adequate to prevent trackout.~~
    - (c) ~~A rumble grate shall consist of raised dividers (rails, pipes, or grates) a minimum of three inches tall, six inches apart, and 20 feet long, to allow a vibration to be produced such that dust is shaken off the wheels of a vehicle as the entire circumference of each wheel of the vehicle passes over the rumble grate. A vehicle wash and/or a cosmetic wash may be substituted for a wheel washer, provided such vehicle wash and/or cosmetic wash has at least 40 pounds per square inch (psi) water spray from the nozzle, meets the definition of wheel washer (i.e., is capable of washing the entire circumference of each wheel of the vehicle), is operated in such a way that visible deposits are removed from the entire circumference of each wheel of the vehicle exiting the wash, is installed, maintained, and used in accordance with criteria in Section 307.6(a)(1)-(6) of this rule, and is approved in the Dust Control Plan for the facility.~~



- (2) ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall ensure that all aggregate trucks, mixer trucks, delivery trucks, and/or batch trucks exit the facility via the rumble grate first and then the wheel washer.
  - (3) ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall post a sign by the rumble grate and wheel washer to designate the speed limit as 5 miles per hour.
  - (4) ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall pave the roads from the rumble grate and wheel washer to the facility exits leading to ~~paved public roadways~~/paved areas accessible to the public.
  - (5) ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall ensure that all aggregate trucks, mixer trucks, delivery trucks, and/or batch trucks remain on the paved roads between the rumble grate and wheel washer and the facility exits leading to ~~paved public roadways~~/paved areas accessible to the public.
  - (6) An owner, operator, or person subject to this rule shall have a water pressure gauge available on-site to measure nozzle pressure if a vehicle wash and/or cosmetic wash is substituted for a wheel washer.
- b. **Rumble Grate, Wheel Washer, or Truck Washer Trackout Control Devices for Facilities with Less than 60 Trucks Exiting on Any Day:** ~~The owner and/or operator of a facility~~ An owner, operator, or person not subject to Section 307.6(a) of this rule shall install, maintain, and use a rumble grate, wheel washer, or truck washer in accordance with all of the following:
- (1) A rumble grate, wheel washer, or truck washer shall be located no less than 30 feet prior to each exit that leads to a ~~paved public roadway~~/paved area accessible to the public and that is used by aggregate trucks, mixer trucks, delivery trucks, and/or batch trucks.
    - (a) ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule may be allowed to install a rumble grate, wheel washer, or truck washer less than 30 feet prior to each exit if the owner and/or operator of a facility can demonstrate to the Control Officer that there is not adequate space to install a rumble grate, wheel washer, or truck washer no less than 30 feet prior to each exit and that a rumble grate, wheel washer, or truck washer at a shorter distance will be adequate to prevent trackout.
    - (b) ~~A rumble grate shall consist of raised dividers (rails, pipes, or grates) a minimum of three inches tall, six inches apart, and 20 feet long, to allow a vibration to be produced such that dust is shaken off the wheels of a vehicle as the entire circumference of each wheel of the vehicle passes over the rumble grate.~~
  - (2) ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall ensure that all aggregate trucks, mixer trucks, delivery trucks, and/or batch trucks exit the facility via a rumble grate, wheel washer, or truck washer.
  - (3) ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall post a sign by the rumble grate, wheel washer, or truck washer to designate the speed limit as 5 miles per hour.
  - (4) If haul/access roads are unpaved between the rumble grate, wheel washer, or truck washer and the facility exits leading to ~~paved public roadways~~/paved areas accessible to the public, a gravel pad shall be installed, maintained, and used from the rumble grate, wheel washer, or truck washer to such ~~paved public roadways~~/paved areas accessible to the public. The gravel pad shall be flushed with water or completely replaced as necessary to comply with the trackout threshold described in Section 307.6(d) of this rule. ~~in accordance with all of the following:~~
    - (a) ~~Gravel pad shall be designed with a layer of washed gravel, rock, or crushed rock that is at least one inch or larger in diameter and 6 inches deep, 30 feet wide, and 50 feet long and shall be flushed with water or completely replaced as necessary to comply with the trackout threshold described in Section 307.6(d) of this rule.~~
    - (b) ~~Gravel pad shall have a gravel pad stabilizing mechanism/device (i.e., curbs or structural devices along the perimeter of the gravel pad) and shall be flushed with water or completely replaced as necessary to comply with the trackout threshold described in Section 307.6(d) of this rule.~~



- c. **Exemptions for Wheel Washers from Trackout Control Device Requirements:** The owner and/or operator of a facility shall not be required to install, maintain, and use a wheel washer, if any one of the following are applicable:
- (1) An owner, operator, or person subject to this rule shall not be required to install, maintain, and use a wheel washer at a facility that has all paved roads and meters aggregate or related materials directly to a ready-mix or hot mix asphalt truck, with the exception of returned products. The owner and/or operator of the facility owner, operator, or person subject to this rule shall install, maintain, and use a rumble grate in compliance with Section 307.6(b) of this rule.
  - (2) An owner, operator, or person subject to this rule shall not be required to install, maintain, and use a wheel washer at a facility that is less than 5 acres in land size and handles recycled asphalt and recycled concrete exclusively. The owner and/or operator of the facility An owner, operator, or person subject to this rule shall install, maintain, and use a rumble grate in compliance with Section 307.6(b) of this rule and shall install a gravel pad in compliance with Section 307.6(b)(4) of this rule on all unpaved roads leading to the facility exits leading to paved public roadways/paved areas accessible to the public.
  - (3) An owner, operator, or person subject to this rule shall not be required to install, maintain, and use a wheel washer at a facility that has a minimum of ¼ mile paved roads leading from a rumble grate to the facility exits leading to paved public roadways/paved areas accessible to the public.
  - (4) An owner, operator, or person subject to this rule shall not be required to install, maintain, and use a wheel washer at a facility that meets the definition of infrequent operations, as defined in Section 229-238 of this rule. The owner and/or operator of the facility An owner, operator, or person subject to this rule shall install, maintain, and use a rumble grate in compliance with Section 307.6(b) of this rule and shall install a gravel pad in compliance with Section 307.6(b)(4) of this rule. The gravel pad shall be installed for a distance of no less than 100 feet from the rumble grate to the facility exits leading to paved public roadways/paved areas accessible to the public. The owner and/or operator of the facility An owner, operator, or person subject to this rule shall keep records in accordance with Section 500 of this rule, as applicable. The owner and/or operator of the facility An owner, operator, or person subject to this rule shall notify the Control Officer in the event that the facility will operate more than 52 days per year based on the average rolling 3-year period after June 8, 2005 and the owner and/or operator of the facility owner, operator, or person subject to this rule shall comply with Section 307.6 of this rule, as applicable.
  - (5) An owner, operator, or person subject to this rule shall not be required to install, maintain, or use a wheel washer, rumble grate, or other trackout control device specified in Section 307.6(a)-(b) of this rule, where the only possible fugitive dust release from the facility may be generated from a process that is otherwise vented or controlled through an approved emission control system and provided the following controls are in place:
    - (a) A paved surface is installed and maintained on all internal travel, parking, and vehicle maneuvering areas;
    - (b) All emissions from processes that create dust are captured by an approved emission control system operated in accordance with Section 305.1 of this rule;
    - (c) All dry material storage silos are equipped with an overflow warning system/device and a pressure control system which prevents spillage during silo loading;
    - (d) All material from rail car bottom dumping, for rail car unloading, is contained in areas where no vehicle use or maneuvering is permitted; and
    - (e) All material transfer operations are conducted in a manner that prevents spillage of material to the ground.
- d. **Trackout Distance:** ~~An owner and/or operator of a facility shall not allow trackout to extend a cumulative distance of 25 linear feet or more from all facility exits onto paved areas accessible to the public. Notwithstanding the proceeding, the owner and/or operator of a facility shall clean up all other trackout at the end of the workday.~~
- (1) An owner, operator, or person subject to this rule shall not allow trackout to extend a cumulative distance of 25 linear feet or more from all facility exits onto paved areas accessible to the public.
  - (2) An owner, operator, or person subject to this rule shall clean up all trackout at the end of the work day.



- e. **Cleaning Paved Roads Identified in the Dust Control Plan:** ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall clean all paved roads identified in the Dust Control Plan for a facility in accordance with all of the following as applicable:
  - (1) ~~The owner and/or operator of~~ An owner, operator, or person subject to this rule at a facility with ~~a minimum of 60 or more~~ aggregate trucks, mixer trucks, delivery trucks, and/or batch trucks exiting the facility on any day shall sweep the paved roads with a street sweeper by the end of each production work shift, if there is evidence of dirt and/or other bulk material extending a cumulative distance of 12 linear feet or more on any paved road.
  - (2) ~~The owner and/or operator of~~ An owner, operator, or person subject to this rule at a facility with less than 60 aggregate trucks, mixer trucks, delivery trucks, and/or batch trucks exiting the facility on any day shall sweep the paved roads with a street sweeper by the end of every other work day, if there is evidence of dirt and/or other bulk material extending a cumulative distance of 12 linear feet or more on any paved road. On the days that paved roads are not swept, if there is evidence of dirt and/or other bulk material extending a cumulative distance of 12 linear feet or more on any paved road, an owner, operator, or person subject to this rule shall remove the dirt and/or other bulk material from the paved internal road by the end of the work day ~~the owner and/or operator of a facility shall apply water on at least 100 feet of paved roads or the entire length of paved roads leading to an exit to paved public roadways/paved areas accessible to the public, if such roadways are less than 100 feet long.~~
  - (3) ~~The owner and/or operator of a facility,~~ An owner, operator or person subject to this rule who purchases street sweepers after June 8, 2005, shall purchase street sweepers that meet the criteria of PM<sub>10</sub>-efficient South Coast Air Quality Management Rule 1186 certified street sweepers.
  - (4) ~~The owner and/or operator of~~ An owner, operator, or person subject to this rule ~~a new facility~~ shall use South Coast Air Quality Management Rule 1186 certified street sweepers to sweep paved roads at a new facility.

**f. Spillage:** An owner, operator, or person subject to this rule shall comply with the following requirements:

- (1) Maintain all spillage in a stabilized condition with dust suppressants until removal.
- (2) Clean-up all spillage at the end of the work day.

~~307.7 Pad Construction for Processing Equipment: The owner and/or operator of a facility shall implement, maintain, and use fugitive dust control measures during the construction of pads for processing equipment, so as to meet all of the applicable requirements in this rule, and shall identify, in the Dust Control Plan, such fugitive dust control measures.~~

**307.7 Weed Abatement by Discing or Blading:** An owner, operator, or person subject to this rule shall implement all of the following fugitive dust control measures before, during, and after weed abatement by discing or blading:

- a. Before weed abatement by discing or blading occurs, apply water;
- b. While weed abatement by discing or blading is occurring, apply water; and
- c. After weed abatement by discing or blading occurs, pave, apply gravel, apply water, apply a suitable dust suppressant other than water, or establish vegetative ground cover.

~~307.8 Spillage: In addition to complying with the fugitive dust emission limitations described in Section 306 of this rule and implementing fugitive dust control measures described in Section 307.1 through Section 307.9 of this rule, as applicable, the owner and/or operator of a facility shall implement the following fugitive dust control measures, as applicable, when spillage occurs:~~

- a. ~~Promptly remove any pile of spillage on paved haul/access roads/paved roads; or~~
- b. ~~Maintain in a stabilized condition any pile of spillage on paved haul/access roads/paved roads and remove such pile by the end of each day; and~~
- e. ~~Maintain in a stabilized condition all other piles of spillage with dust suppressants until removal.~~



**307.8** **Demolition:** An owner, operator, or person subject to this rule shall implement all of the following fugitive dust control measures before, during, and after blasting operations:

- a. Apply water to demolition debris immediately following demolition activity; and
- b. After demolition, apply water to all soil surfaces to establish a visible crust and to prevent wind erosion.

**307.9** **Nighttime Operations:** ~~The owner and/or operator of a facility~~ An owner, operator or person subject to this rule shall implement, maintain, and use fugitive dust control measures between sunset and sunrise at night, as approved in the Dust Control Plan so as to meet all of the applicable requirements in this rule, and shall identify in the Dust Control Plan such fugitive dust control measures.

**307.10** **Other Dust-Generating Operations:** An owner, operator, or person subject to this rule shall implement the following control measures, as applicable, when conducting dust-generating operations not specifically listed in Section 307.1 through Section 307.9 of this rule, or when a dust-generating operation is finished for a period of 30 days or longer:

- a. Before disturbed surface areas are created, implement one of the following control measures:
  - (1) Pre-water site to depth of cuts, allowing time for penetration; or
  - (2) Phase work to reduce the amount of disturbed surface areas at any one time.
- b. While disturbed surface areas are being created, implement one of the following control measures:
  - (1) Apply water or other suitable dust suppressant other than water to keep the soil visibly moist;
  - (2) Apply water to maintain a soil moisture content at a minimum of 12%, as determined by ASTM Method D2216-05 or other equivalent method as approved by the Control Officer and the Administrator. For areas that have optimum moisture content for compaction of less than 12%, as determined by ASTM Method D1557-02e1 or other equivalent method approved by the Control Officer and the Administrator, maintain at least 70% of the optimum soil moisture content; or
  - (3) Implement control measures described in Section 307.10(b)(1) or Section 307.10(b)(2) of this rule and construct fences or three-foot to five-foot high wind barriers with 50% or less porosity adjacent to roadways or urban areas to reduce the amount of wind-blown material leaving a site.
- c. When a dust-generating operation is finished for a period of 30 days or longer, the owner, operator, or person subject to this rule shall implement one of the following control measures on the disturbed surface area within ten days after cessation nonmetallic mineral processing, related operations, or any other dust-generating operations.
  - (1) Pave, apply gravel, or apply a suitable dust suppressant other than water;
  - (2) Establish vegetative ground cover;
  - (3) Implement control measures described in Section 307.10(c)(1) or Section 307.10(c)(2) of this rule and restrict vehicle access to the area;
  - (4) Apply water and prevent access by fences, ditches, vegetation, berms, or other suitable barrier or means sufficient to prevent vehicle access as approved by the Control Officer;
  - (5) Restore area such that the vegetative ground cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions.

**307.11** **Soil Moisture:** If water is the chosen control measure in an approved Dust Control Plan, the owner, operator, or person subject to this rule shall operate a water application system (e.g. a water truck) at the facility while conducting any operations that have the potential to generate fugitive dust emissions, unless a visible crust is maintained or the soil is sufficiently damp to prevent loose grains of soil from becoming dislodged.



- 308 FACILITY INFORMATION SIGN:** ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule shall erect and maintain a facility information sign at the main entrance such that members of the public can easily view and read the sign at all times. Such sign shall have a white background, have black block lettering that is at least four inches high, and shall contain at least all of the following information:
- 308.1** Facility name and permittee’s name;
  - 308.2** Current number of the air quality permit or of authority to operate under a general permit;
  - 308.3** Name and local phone number of person(s) responsible for dust control matters; and
  - 308.4** Text stating: “Dust complaints? Call Maricopa County Air Quality Department - (Insert the accurate Maricopa County Air Quality Department complaint line telephone number).”
- 309 FUGITIVE DUST CONTROL TECHNICIAN:** ~~The owner and/or operator of a facility~~ An owner, operator, or person subject to this rule with a rated or permitted capacity of 25 tons or more of material per hour or with five acres or more of disturbed surface area subject to a permit, whichever is greater, shall have in place a Fugitive Dust Control Technician, who shall meet all of the following qualifications:
- 309.1** Be authorized by the ~~owner and/or operator of the facility~~ owner, operator, or person subject to this rule to have full authority to ensure that fugitive dust control measures are implemented on-site and to conduct routine inspections, recordkeeping, and reporting to ensure that all fugitive dust control measures are installed, maintained, and used in compliance with this rule.
  - 309.2** Be trained in accordance with the Comprehensive Dust Control Training Class conducted or approved by the Control Officer, successfully complete, at least once every three years, such Comprehensive Dust Control Training Class, and have a valid dust training certification identification card readily accessible on-site while acting as a Fugitive Dust Control Technician.
  - 309.3** Be authorized by the ~~owner and/or operator of the facility~~ operator, or person subject to this rule to install, maintain, and use fugitive dust control measures, deploy resources, and shutdown or modify ~~activities~~ equipment or operations as needed.
  - 309.4** Be on-site at all times during primary dust-generating operations related to the purposes for which the permit was obtained.
  - 309.5** Be certified to determine opacity as visible emissions in accordance with the provisions of the EPA Method 9 as specified in 40 CFR, Part 60, Appendix A.
  - 309.6** Be authorized by the ~~owner and/or operator of the facility~~ operator, or person subject to this rule to ensure that the site superintendent or other designated on-site representative of the ~~owner and/or operator of the facility~~ operator, or person subject to this rule and water truck and water pull drivers for each site be trained in accordance with the Basic Dust Control Training Class conducted or approved by the Control Officer with jurisdiction over the site and successfully complete, at least once every three years, such Basic Dust Control Training Class.
- 310 BASIC DUST CONTROL TRAINING CLASS:**
- 310.1** At least once every three years, the ~~site superintendent~~ plant manager, foreman, or other designated on-site representative of the permit holder, if present at a site that has more than one acre of disturbed surface area that is subject to a permit issued by the Control Officer requiring control of PM<sub>10</sub> emissions from dust-generating operations shall successfully complete a Basic Dust Control Training Class conducted or approved by the Control Officer.
  - 310.2** At least once every three years, water truck and water-pull drivers shall successfully complete a Basic Dust Control Training Class conducted or approved by the Control Officer.
  - 310.3** ~~All persons having successfully completed training during the 2006 and 2007 calendar years shall be deemed to have satisfied the requirement to successfully complete the Basic Dust Control Training Class, if the training that was completed was conducted or approved by the Control Officer.~~ Completion of the Comprehensive Dust Control Training Class, as required in Section 309.2 of this rule, shall satisfy the requirement of this section of this rule.
  - 310.4** For water truck drivers hired on or after [insert date of rule adoption], basic training is required within 60 days from the date of hire unless such time period is extended by the Control Officer, upon written request, for good cause.



## 311 DUST CONTROL PLAN:

- 311.1** ~~The owner and/or operator of a facility shall~~ An owner, operator, or person subject to this rule shall submit, to the Control Officer, a Dust Control Plan that ~~describes all fugitive dust control measures to be implemented, in order to comply with Section 305.2, Section 306, Section 307, and Section 309 of this rule~~ includes, at a minimum, the following information:
- a.** Name(s), address(es), and phone numbers of person(s) responsible for the submittal and implementation of the Dust Control Plan and responsible for the dust-generating operation.
  - b.** Equipment associated with any process fugitive emissions to be implemented, in order to comply with Sections 301, 302, and 303 of this rule.
  - c.** Fugitive dust control measures to be implemented, in order to comply with Sections 305, 306, and 307 of this rule.
  - d.** Appropriate control measures, or a combination thereof, for every actual and potential source of fugitive dust; and
  - e.** Fugitive dust control measures to be implemented for other affected operations not identified in this rule, as applicable.
  - f.** Installation date of trackout control device, if applicable;
  - g.** Dust suppressants to be applied, including all of the following product specifications or label instructions for approved usage:
    - (1)** Method, frequency, and intensity of application;
    - (2)** Type, number, and capacity of application equipment; and
    - (3)** Information on environmental impacts and approvals or certifications related to appropriate and safe use for ground application.
  - h.** Operation and maintenance procedures for process controls and fugitive dust control measures, including but not limited to, gravel pads, wheel washers, truck washers, rumble grates, watering systems, and street sweepers, that are used to comply with this rule or an air pollution control permit.
  - i.** A drawing, on 8½" x 11" paper, that shows all of the following information:
    - (1)** Property boundaries and project site boundaries with linear dimensions,
    - (2)** Location, linear dimensions, and specific surfaces treatment(s) and/or control measures utilized (i.e., install and maintain a paved surface or a cohesive hard surface) for staging areas, open storage piles, haul/access roads, parking areas, and permanent areas of the facility,
    - (3)** Location and type of trackout control device, if applicable,
    - (4)** Nearest public roads,
    - (5)** North arrow, and
    - (6)** Planned exit locations onto areas accessible to the public.
    - (7)** Unpaved parking lot(s).
  - j.** The method that will be used for soil moisture testing: ASTM C566-97 (2004) "Standard Test Method For Total Evaporable Moisture Content Of Aggregate By Drying" or Speedy Moisture Meter.
  - k.** A process diagram that identifies the progression of material containing aggregate material less than 0.25 inch in diameter through the process and that includes all of the following information:



- (1) Identification of all screen outlets of aggregate material less than 0.25 inch in diameter;
- (2) Identification of all crusher outlets of aggregate material less than 0.25 inch in diameter;
- (3) Identification of all stacker points of aggregate material less than 0.25 inch in diameter;
- (4) Identification of sample points for soil moisture tests required by Section 312 of this rule; and
- (5) Identification of the applicable minimum soil moisture content required by Section 301.2(c) of this rule for each sample point for soil moisture tests.

~~311.2 The owner and/or operator of a facility shall submit, to the Control Officer, a Dust Control Plan that describes all equipment associated with any process fugitive emissions to be implemented, in order to comply with Section 301 and Section 305.2 of this rule and that includes all of the information in Section 311.2(a) and Section 311.2(b) of this rule, as applicable. If an alternative plan for conducting required soil moisture tests is approved by the Control Officer, included in a Dust Control Plan, and implemented by the owner and/or operator, as allowed under Section 301.2(c)(6) of this rule, and if the Control Officer determines that such alternative plan included in a Dust Control Plan has been followed, yet fugitive dust emissions still exceed the standards of this rule, then the Control Officer shall issue a written notice to the owner and/or operator explaining such determination. The owner and/or operator shall make written revisions to the Dust Control Plan and shall submit such revised Dust Control Plan to the Control Officer within three working days of receipt of the Control Officer's written notice, unless such time period is extended by the Control Officer, upon request, for good cause. During the time that such owner and/or operator is preparing revisions to the Dust Control Plan, such owner and/or operator must still comply with all requirements of this rule.~~

- ~~a. Documentation for the soil moisture content in order to comply with Section 301.2 of this rule.~~
- ~~b. Documentation of soil moisture analysis for each move notice regarding portable sources.~~

~~311.3 The Dust Control Plan shall, in addition, contain all the information described in Rule 310 Fugitive Dust From Dust-Generating Operations of these rules.~~

~~311.4 All other criteria associated with the Dust Control Plan shall meet the criteria described in Rule 310 Fugitive Dust From Dust-Generating Operations of these rules.~~

**311.2** An owner, operator, or person subject to this rule shall submit to the Control Officer a revised Dust Control Plan at each of the following times:

- a. At the time such owner, operator, or person subject to this rule submits an application for an air pollution control permit to the Control Officer;
- b. Prior to commencing dust generating operations, nonmetallic mineral processing, or any related operations in areas of a facility that were not previously identified in the approved Dust Control Plan;
- c. Prior to installing, maintaining, or using new roads (excluding new roads within a pit), new parking areas, or new staging areas that were not previously identified in the approved Dust Control Plan;
- d. Prior to modifying any dust control measures specified in the approved Dust Control Plan;
- e. Prior to implementing changes to the soil moisture testing protocol in the approved Dust Control Plan, except as allowed in Section 312 of this rule;
- f. Prior to commencing construction or demolition projects that were not previously described in the approved Dust Control Plan.

~~311.5~~ **311.3** The Control Officer shall approve, disapprove, or conditionally approve the Dust Control Plan, in accordance with the criteria used to approve, disapprove or conditionally approve a permit. Failure to comply with the provisions of an approved Dust Control Plan shall be deemed a violation of this rule.



~~311.6 With each move notice regarding portable sources, the owner and/or operator of a facility shall submit, to the Control Officer, a Dust Control Plan that meets the requirements of this section of this rule.~~

**311.4** The Control Officer shall provide written notification to the owner, operator, or person subject to this rule, if the Control Officer determines any of the following:

- a.** That a Dust Control Plan is incomplete;
- b.** That the Dust Control Plan is conditionally approved; or
- c.** That an approved Dust Control Plan has been followed, yet fugitive dust emissions still exceed the standards of this rule and, therefore, a revised Dust Control Plan is required.

**311.5** The owner, operator, or person subject to this rule, who receives a notice as described in Section 311.4 of this rule, shall make written revisions to the Dust Control Plan and shall submit such revised Dust Control Plan to the Control Officer within three working days of receipt of the Control Officer’s written notice, unless such time period is extended by the Control Officer, upon written request, for good cause. During the time that such owner, operator, or person subject to this rule is preparing revisions to the Dust Control Plan, such owner, operator, or person shall still comply with all requirements of this rule.

**311.6** The owner, operator, or person subject to this rule shall keep a complete copy of the approved Dust Control Plan on-site at all times.

**311.7** An owner, operator, or person subject to this rule shall make available the approved Dust Control Plan to all contractors and subcontractors at a facility who are engaged in nonmetallic mineral processing or related operations that are subject to this rule.

~~312 GENERAL REQUIREMENTS: An owner and/or operator of a facility subject to this rule shall be subject to the standards and/or requirements of this rule at all times. Failure to comply with any one of the following requirements shall constitute a violation.~~

- ~~312.1 Process emission limitations and controls described in Section 301, Section 302, and Section 303 of this rule.~~
- ~~312.2 Operation and maintenance (O&M) plan requirements for an emission control system and for dust control measures described in Section 305 of this rule.~~
- ~~312.3 Fugitive dust emission limitations described in Section 306 of this rule.~~
- ~~312.4 Fugitive dust control measures described in Section 307 of this rule.~~
- ~~312.5 Facility information sign requirement described in Section 308 of this rule.~~
- ~~312.6 Fugitive Dust Control Technician requirements described in Section 309 of this rule.~~
- ~~312.7 Basic Dust Control Training Class requirements described in Section 310.~~
- ~~312.8 Dust Control Plan requirements described in Section 311 of this rule.~~
- ~~312.9 Monitoring and recordkeeping requirements described in Section 500 of this rule.~~
- ~~312.10 Any other requirements of this rule.~~

**312 CRUSHING AND SCREENING – MOISTURE TESTING REQUIREMENTS:**

**312.1 Moisture Testing Procedures:** An owner, operator, or person subject to this rule shall conduct moisture tests as follows:

- a.** Moisture testing shall be conducted on aggregate material less than 0.25 inch in diameter at the sampling points specified in Section 312.1(a)(1)-(3) of this rule.
  - (1)** At the beginning of the process line from the feed entering the line;



- (2) At a point between the initial shaker screen and the final stack point; and
  - (3) From each stacker point or material placed on the stacker conveyor containing aggregate material less than 0.25 inch in diameter.
  - (4) An owner, operator, or person subject to this rule may request in writing that moisture testing be conducted at sampling points other than those specified in Section 312.1(a)(1)-(3). In the request, the owner, operator, or person subject to this rule shall submit to the Control Officer documentation regarding the requested sampling points. The request shall include the following explanation(s): (1) safety issues (i.e., worker exposure to moving equipment) and/or feasibility issues (i.e., guards on transfer points) affecting the sampling location(s), (2) proposed alternative sampling location(s) with explanation that such alternative sampling location(s) will ensure compliance with all other moisture testing procedures in this rule, and (3) identification of such alternative sampling location(s) in the approved Dust Control Plan or in a revision approved to the Dust Control Plan.
  - (5) An owner, operator, or person subject to this rule may request in an application for an air pollution control permit, with explanation, an alternative plan that justifies conducting fewer soil moisture tests. In the request, the owner, operator, or person subject to this rule shall submit to the Control Officer documentation regarding conducting fewer soil moisture tests than are required, including, but not limited to, economics, emissions rates, water availability, and technical feasibility. In addition, the owner, operator, or person subject to this rule shall demonstrate that the proposed alternative compliance demonstration plan will be equivalent in determining compliance with the soil moisture content requirements. Prior approval from the Control Officer and the Administrator shall be received before implementing the plan.
- b.** Moisture testing shall be conducted in accordance with the following requirements:
- (1) Moisture testing shall be conducted in accordance with the requirements of ASTM C566-97 (2004) “Standard Test Method For Total Evaporable Moisture Content Of Aggregate By Drying” with the exception that smaller sample portions may be used.
  - (2) As an alternative to Section 312.1(b)(1) of this rule, an owner, operator, or person subject to this rule may use the Speedy Moisture Meter after receiving written approval from the Control Officer and after submitting to the Control Officer a written request that includes the following information:

    - (a) A description of the alternative testing equipment, including the display range, maintenance requirements, and any limitations;
    - (b) A correlation analysis conducted using 20 samples from the Speedy Moisture Meter and the results using ASTM C566-97 (2004). A separate correlation analysis shall be done for each unit (serial number shall be specified);
    - (c) A description of the calibration procedures that includes the following information:

      - (i) Calibration of each Speedy Moisture Meter (serial number shall be specified) on at least a biweekly basis against ASTM C566-97 (2004) as a standard;
      - (ii) Identification of at least three sampling points per process line to be used for calibration in the Dust Control Plan required by Section 311 of this Rule. The three sampling points shall be at the beginning of the process line, at a point between the primary shaker and the final stack point, and at the end of the process.
    - (d) An agreement to revert to ASTM C566-97 (2004) if the Speedy Moisture Meter results do not correlate with ASTM C566-97 (2004); and
    - (e) Modification of the site-specific O&M Plan or Dust Control Plan to include the information described in Sections 312.1(b)(2)(c) and (d) of this rule.

**312.2 Moisture Testing Frequency:**

- a.** If the owner, operator, or person subject to this rule is required to have in place a Fugitive Dust Control Technician according to Section 309 of this rule, then soil moisture tests shall be conducted twice daily.



- b. If the owner, operator, or person subject to this rule is not required to have in place a Fugitive Dust Control Technician according to Section 309 of this rule, then soil moisture tests shall be conducted once daily.
- c. On days when moisture testing is required, an owner, operator, or person subject to this rule shall collect a sample from each location identified in the approved Dust Control Plan within one hour after startup of the crushing and screening operation.
- d. On days when twice daily moisture testing is required, an owner, operator, or person subject to this rule shall collect a sample from each location identified in the approved Dust Control Plan at 3 pm or within one hour before shutdown of the crushing and screening operation.
- e. When crushing and screening operations continue for more than 16 hours on a day when twice daily moisture testing is required, an additional soil moisture sample shall be collected from each sampling location identified in the approved Dust Control Plan such that soil moisture samples are collected no less frequently than once in every 8-hour period.

**312.3 Reduction In Moisture Testing Frequency:**

- a. If the owner, operator, or person subject to this rule demonstrates that the applicable moisture contents listed in Section 301.2(c) of this rule are maintained for a minimum of 20 consecutive soil moisture samples collected from each of the sampling locations identified in the approved Dust Control Plan, then soil moisture tests may be conducted weekly in accordance with the test methods described in Section 312.1 of this rule, without prior approval from the Control Officer.
- b. If the owner, operator, or person subject to this rule fails to comply with the opacity limitations described in Sections 301.1, 306.1, or 306.2 of this rule and/or if two consecutive soil moisture tests result in a moisture level below the applicable moisture contents listed in Section 301.2(b) of this rule, then the owner, operator, or person subject to this rule shall resume the sampling frequency specified in Section 312.2 of this rule, as applicable.
- c. Each time a portable crushing operation or a portable screening operation is moved, the owner, operator, or person subject to this rule shall resume the sampling frequency specified in Section 312.2 of this rule, as applicable. The owner, operator or person subject to this rule shall repeat the procedures in Section 312.3(a) of this rule each time the portable crushing or screening operation is moved before reducing the frequency of moisture testing.

**312.4 Moisture Testing Exemption:** Moisture testing is not required on a crusher and/or screen plant that is enclosed and exhausted to a properly sized fabric filter baghouse.

**313 STANDARDS OF PERFORMANCE FOR NONMETALLIC MINERAL PROCESSING:** An owner, operator, or person subject to this rule shall comply with all applicable requirements of 40 CFR Part 60 Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS**

**401 COMPLIANCE SCHEDULE FOR NEWLY AMENDED PROVISIONS OF THIS RULE:** The newly amended provisions of this rule shall become effective upon adoption of this rule except as follows:

**401.1 Process Controls:** Process controls required by ~~Section 301.2~~ Sections 301.2, 302.2, and 303.2 of this rule shall be implemented by ~~July 12, 2008~~ [insert date - three months after rule adoption].

**401.2 O&M Plan:**

- a. ~~The owner and/or operator~~ If modifications to an O&M Plan are required to achieve compliance with the requirements of this rule, an owner, operator, or person subject to this rule of an existing facility shall revise/update all O&M Plans by June 12, 2008 [insert date – three months after rule adoption].
- b. The Control Officer shall take final action on an O&M Plan revision/update to address the newly amended provisions of this rule within 30 calendar days of the filing of the complete O&M Plan revision/update. The Control Officer shall notify the applicant in writing of his approval or denial.

**401.3 Dust Control Plan:**



- a. ~~The owner and/or operator~~ An owner, operator, or person subject to this rule of an existing facility shall revise/update all Dust Control Plans required by this rule by June 12, 2008 [insert date – three months after rule adoption].
- b. The owner and/or operator of a new facility shall submit to the Control Officer a Dust Control Plan at the time such owner and/or operator submits a permit application to the Control Officer.
- c. The Control Officer shall take final action on a Dust Control Plan revision/ update to address the newly amended provisions of this rule within 30 calendar days of the filing of the complete Dust Control Plan revision/update. The Control Officer shall notify the applicant in writing of his approval or denial.

**401.4** ~~Basic Dust Control Training Class: No later than December 31, 2008, a site superintendent or other designated on-site representative of the permit holder, water truck drivers, and water pull drivers shall have successfully completed the Basic Dust Control Training Class, as described in Section 310 of this rule.~~ **Rumble Grates:** Rumble grates that are installed or moved on or after [insert date of rule adoption] shall meet the requirements described in Section 260 of this rule. If a rumble grate installed prior to [insert date of rule adoption], as identified by an installation date in the Dust Control Plan, is modified (e.g., rumble grate dividers are raised), such rumble grate is not subject to the requirements in Section 260 of this rule. However, should a source receive two or more violations for trackout during any consecutive 24-month period, then the owner, operator, or person subject to this rule shall meet the requirements described in Section 260 of this rule.

**401.5** ~~Comprehensive Dust Control Training Class: No later than June 30, 2008, a Fugitive Dust Control Technician shall have successfully completed the Comprehensive Dust Control Training Class, as described in Section 309 of this rule.~~

**401.6** ~~Rumble Grates: As of June 12, 2008, new rumble grates or existing rumble grates that are moved or modified must meet the requirements described in Sections 307.6(a)(1)(c) or 307.6(b)(1)(b) of this rule.~~

**SECTION 500 – MONITORING AND RECORDS**

**501** **MONITORING, RECORDKEEPING AND REPORTING:** ~~Any owner and/or operator of a facility~~ An owner, operator, or 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.~~

**501.1** Operational information required by this rule shall be kept on-site, in written or electronic format, and in a complete and consistent manner ~~on-site~~ and ~~shall~~ be made available without delay to the Control Officer upon request. Paper or electronic copies of records required by this rule shall be made available to the Control Officer upon request.

**501.2** Records of the following process and operational information, as applicable, are required:

- a. **General Data:** Daily records shall be kept for all days that ~~a facility~~ process equipment is ~~actively~~ operating. Records shall include all of the following:
  - (1) Hours of operation;
  - (2) Type of batch operation (wet, dry, central);
  - (3) Throughput per day of ~~basic raw~~ materials including sand, aggregate, and cement (tons/day);
  - (4) Volume of concrete produced per day (cubic yards/day) and ~~volume amount~~ of asphaltic concrete produced per day (tons/day);
  - (5) ~~Volume~~ Amount of aggregate mined per day ~~(tons per day)(tons/day); and~~
  - (6) Amount of each ~~basic raw material including sand, aggregate, nonmetallic mineral and amount of each dry material~~ cement, fly ash delivered per day (tons/day or cubic yards/day);
  - (7) For facilities that assert to be below the thresholds in Section 307.6(a) and Section 307.6(e)(1) of this rule, the number of aggregate trucks, mixer trucks, delivery trucks, and/or batch trucks exiting the facility; and
  - (8) Description of operating condition of process controls as required in Section 301.2(d) of this rule.



- b. ~~Additional Data For Dry Mix Concrete Plants and/or Bagging Operations: Records shall include all of the following:~~ **Soil Moisture Testing:**
  - (1) ~~Number of bags of dry mix produced; The date, time, and location for each soil moisture sample collected;~~
  - (2) ~~Weight (size) of bags of dry mix produced; Results of each soil moisture test; and~~
  - (3) ~~Kind and amount of fuel consumed in dryer (cubic feet/day or gallons/day); and Corrective actions taken when soil moisture test results are below the applicable minimum moisture content in Section 301.2(c) of this rule.~~
  - (4) ~~Kind and amount of any back up fuel, if any.~~
  
- e. ~~Control And Monitoring Device Data: Records shall include all of the following:~~
  - (1) ~~For a fabric filter baghouse:~~
    - (a) ~~Date of inspection;~~
    - (b) ~~Date and designation of bag replacement;~~
    - (c) ~~Date of service or maintenance related activities; and~~
    - (d) ~~Time, date, and cause of fabric filter baghouse failure and/or down time, if applicable.~~
  - (2) ~~For a scrubber:~~
    - (a) ~~Date of service or maintenance related activities;~~
    - (b) ~~Liquid flow rate;~~
    - (c) ~~Other operating parameters that need to be monitored to assure that the scrubber is functioning properly and operating within design parameters; and~~
    - (d) ~~Time, date, and cause of scrubber failure and/or down time, if applicable.~~
  - (3) ~~For watering systems (e.g., spray bars or an equivalent control):~~
    - (a) ~~Date, time, and location of each moisture sampling point; and~~
    - (b) ~~Results of moisture testing.~~

**501.3 O&M Plan Records:** ~~An owner and/or operator of a facility shall~~ An owner, operator, or person subject to this rule shall maintain all of the following records in accordance with ~~an~~ the approved O&M Plan:

- a. ~~For Any ECS, Any Other Emission Processing Equipment, And Any ECS Monitoring Devices That Are Used Pursuant to~~ **Under This Rule Or to Under An Air Pollution Control Permit:**
  - (1) Periods of time that an approved ECS is operating to comply with this rule;
  - (2) Periods of time that an approved ECS is not operating;
  - (3) Flow rates;
  - (4) Pressure drops;
  - (5) Other conditions and operating parameters necessary to determine if the approved ECS is functioning properly;
  - (6) Results of visual inspections; ~~and~~



- (7) Correction action taken, if necessary; and
- (8) Dates of all service or maintenance related activities for each approved ECS.

**b. ~~For Equipment Associated With Any Process Fugitive Emissions And Any Fugitive Dust Control Measures That Are Implemented To Comply With This Rule Or To An Air Pollution Control Permit:~~**

- (1) ~~A written record of self-inspection on each day that a facility is actively operating. Self-inspection records shall include daily inspections or in compliance with O&M Plan requirements, whichever is more frequent;~~
- (2) ~~Maintenance of street sweepers; and~~
- (3) ~~Maintenance of trackout control devices, gravel pads, wheel washers, and truck washers.~~

**501.4 Dust Control Plan Records:** ~~An owner and/or operator of a facility shall~~ An owner, operator, or person subject to this rule shall compile, maintain, and retain a written record of self-inspection of all fugitive dust control measures implemented, in order to comply with the Dust Control Plan, on each day that ~~the facility is actively operating~~ any activity capable of generating fugitive dust is conducted at the facility. ~~Self-inspection records shall include information as described in Rule 310: Fugitive Dust From Dust-Generating Operations of these rules.~~ Self-inspection records shall include daily inspections for crusted or damp soil, trackout conditions and clean-up measures, daily water usage for dust control measures, and dust suppressant application. Such written records shall also include the following information:

- a. Method, frequency, and intensity of application or implementation of the control measures;
- b. Method, frequency, and amount of water application to the site;
- c. Street sweeping frequency;
- d. Types of surface treatments applied to and maintenance of trackout control devices, gravel pads, fences, wind barriers, and tarps;
- e. Types and results of test methods conducted;
- f. If contingency control measures are implemented, actual application or implementation of contingency control measures and why contingency control measures were implemented;
- g. List of subcontractors' names and registration numbers, if applicable, updated when changes are made; and
- h. Names of employee(s) who successfully completed dust control training class(es) required by Sections 309 and 310 of this rule, and the date of the class(es) that such employee(s) successfully completed.

**501.5 Basic Dust Control Training Class Records:** ~~An owner and/or operator of a facility shall~~ An owner, operator, or person subject to this rule shall compile, maintain, and retain a written record for each employee subject to Section 310 of this rule. Such written records shall include the name of the employee, the date of the Basic Dust Control Training Class that such employee successfully completed, and the name of the agency/representative who conducted such class.

**502 COMPLIANCE DETERMINATION FOR PROCESS EMISSIONS AND CONTROLS:** Compliance determinations for activities regulated by Sections 301 (excluding Section ~~301.1(e))~~ 301.1(b)(3), 302, and/or 303 of this rule shall be made according to the test methods for those subparts of 40 CFR Part 60, Appendix A, ~~adopted as of July 1, 2007,~~ as listed below. Such subparts of 40 CFR Part 60, Appendix A, ~~adopted as of July 1, 2007~~ and 40 CFR Part 51, Appendix M, ~~adopted as of July 1, 2007,~~ are ~~adopted~~ incorporated by reference as indicated. The EPA test methods as they exist in the CFR, as listed below, are incorporated by reference in Appendix G of these rules. This ~~adoption~~ incorporation by reference includes no future editions or amendments. Copies of test methods referenced in Section 502 of this rule are available at Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, Arizona, 85004-1942. When more than one test method is permitted for a compliance determination, then an exceedance of the limits established in this rule, determined by any of the applicable test methods, constitutes a violation of this rule.

**502.1 Grain Loading:** Particulate matter ~~and associated moisture content shall~~ concentration shall be determined using the applicable EPA Reference ~~Methods 1 through 5~~ Method 5, 40 CFR Part 60, Appendix A.



- 502.2 Opacity Observations:** ~~Opacity observations to measure visible emissions from activities regulated by Sections 301 (excluding Section 301.1(e)), 302, and/or 303 of this rule shall be conducted in accordance with the techniques specified in EPA Reference Method 203B (Visual Determination Of Opacity Of Emissions From Stationary Sources For Time Exception Regulations), 40 CFR Part 51, Appendix M, adopted as of July 1, 2007. Emissions shall not exceed the applicable opacity standards described in Section 301 (excluding Section 301.1(e)), Section 302, and Section 303 of this rule for a period aggregating more than three minutes in any 60-minute period.~~
- a. ~~Opacity observations to measure visible emissions from activities regulated by Sections 301 (excluding truck dumping directly into any screening operation, feed hopper, or crusher), 302 (excluding truck dumping directly into any screening operation, feed hopper, or crusher), and/or 303 of this rule shall be conducted in accordance with the techniques specified in EPA Reference Method 203B (Visual Determination Of Opacity Of Emissions From Stationary Sources For Time-Exception Regulations), 40 CFR Part 51, Appendix M. The EPA test methods as they exist in the CFR are incorporated by reference in Appendix G of these rules. Emissions shall not exceed the applicable opacity standards described in Section 301, Section 302, and Section 303 of this rule for a period aggregating more than three minutes in any 60-minute period.~~
  - b. ~~Opacity observations to determine compliance with the opacity limits for truck dumping directly into any screening operation, feed hopper, or crusher shall be conducted in accordance with the techniques specified in Appendix C Fugitive Dust Test Methods of these rules.~~
- 502.3 Soil Moisture Testing for Watering Systems:**
- a. ~~If twice daily moisture sampling is required, such sampling shall be conducted within one hour of startup and again at 3 pm or within one hour prior to daily shutdown but no less frequently than once every 8-hour period.~~
  - b. ~~If daily moisture sampling is required, such sampling shall be conducted within one hour after startup.~~
  - c. ~~Moisture testing shall be conducted on all crushers, shaker screens, and material transfer points (excluding wet plants). Unless prior approval from the Control Officer is granted, moisture testing shall be conducted at the following sample points:~~
    - (1) ~~Within 10 feet from the point where crushed aggregate material is placed on the discharge belt conveyor from the crusher;~~
    - (2) ~~Within 10 feet from the point where screened aggregate material is placed on the conveyor; and~~
    - (3) ~~From each stacker point.~~
  - d. ~~The number of sampling points identified in Section 502.3(c)(1) through (3) of this rule may be reduced, if the owner and/or operator of a facility complies with all of the following requirements:~~
    - (1) ~~A 5% minimum moisture content, as demonstrated by a soil moisture test conducted in accordance with the test methods described in Section 502 of this rule, is maintained at the primary crusher;~~
    - (2) ~~A minimum of 20 soil moisture samples are taken at all of the points identified in Section 502.3(c) of this rule;~~
    - (3) ~~A 4% minimum moisture content, as demonstrated by a soil moisture test conducted in accordance with the test methods described in Section 502 of this rule and as demonstrated by the soil moisture samples required by Section 502.3(d)(2) of this rule, is maintained at all of the points identified in Section 502.3(c) of this rule; and~~
    - (4) ~~A written request is submitted to and approved by the Control Officer to revise/modify the Dust Control Plan to reflect the change in moisture content and the reduced number of sampling points according to the demonstration made by the owner and/or operator of a facility according to this section of this rule.~~
  - e. ~~Moisture testing is not required on a crusher and/or screen plant equipped with a baghouse or fabric filter, electrostatic precipitator, or wet scrubber, excluding wet spray bars, for control of particulate matter.~~
  - f. ~~Moisture testing shall include all aggregate material less than 0.25-inch in diameter.~~



- g. Moisture testing shall be conducted in accordance with the requirements of American Society For Testing And Materials C566-97 (2004) “Standard Test Method for Total Evaporable Moisture Content of Aggregate by Drying” with the exception that smaller sample portions may be used.

**503 COMPLIANCE DETERMINATION FOR EMISSIONS AND CONTROLS THAT ARE REGULATED BY SECTION ~~301.1(E)~~ 301.1(B)(3), SECTION ~~302.1(E)~~ 304, AND/OR SECTION 306 OF THIS RULE:** To determine compliance with the fugitive dust emission limitations described in Section ~~301.1(e)~~ 301.1(b)(3), Section ~~304~~ 302.1(e), and/or Section 306 of this rule, opacity observations shall be conducted in accordance with the techniques specified in Appendix C-Fugitive Dust Test Methods of these rules.

**504 COMPLIANCE DETERMINATION FOR SOIL MOISTURE CONTENT AND SOIL COMPACTION CHARACTERISTICS TEST METHODS ~~ADOPTED~~ INCORPORATED BY REFERENCE:**

- 504.1** ASTM Method D2216-05 ("Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock by Mass"), 2005 edition.
- 504.2** ASTM Method D1557-02e1 ("Test Method for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft<sup>3</sup> (2,700 kN-m/m<sup>3</sup>))"), 2002 edition.
- 504.3** ASTM C566-97 (2004) “Standard Test Method For Total Evaporable Moisture Content Of Aggregate By Drying”.

**505 COMPLIANCE DETERMINATION FOR STABILIZATION STANDARDS TEST METHODS ~~ADOPTED~~ INCORPORATED BY REFERENCE:** The stabilization standards described in ~~Section 306.5~~ Section 306 of this rule shall be determined by using the following test methods in accordance with Appendix C-Fugitive Dust Test Methods of these rules:

- 505.1** Appendix C, Section 2.1.2 (Silt Content Test Method) of these rules to estimate the silt content of the trafficked parts of unpaved roads (not to exceed 6%) and unpaved parking lots (not to exceed 8%).
- 505.2** Appendix C, Section 2.3 (Test Methods for Stabilization-Soil Crust Determination (The Drop Ball Test)) of these rules for a soil crust.
- 505.3** Appendix C, Section 2.4 (Test Methods for Stabilization-Determination of Threshold Friction Velocity (TFV) (Sieving Field Procedure)) of these rules for threshold friction velocity (TFV) corrected for non-erodible elements of 100 cm/second or higher.
- 505.4** Appendix C, Section 2.5 (Test Methods for Stabilization-Determination of Flat Vegetative Cover) of these rules for flat vegetation cover (i.e., attached (rooted) vegetation or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind) that is equal to at least 50%.
- 505.5** Appendix C, Section 2.6 (Test Methods for Stabilization-Determination of Standing Vegetative Cover) of these rules for standing vegetation cover (i.e., vegetation that is attached (rooted) with a predominant vertical orientation) that is equal to or greater than 30%.
- 505.6** Appendix C, Section 2.6 (Test Methods for Stabilization-Determination of Standing Vegetative Cover) of these rules for standing vegetation cover (i.e., vegetation that is attached (rooted) with a predominant vertical orientation) that is equal to or greater than 10% and where the threshold friction velocity is equal to or greater than 43 cm/second when corrected for non-erodible elements.
- 505.7** Appendix C, Section 2.7 (Test Methods for Stabilization-Rock Test Method) of these rules for a percent cover that is equal to or greater than 10%, for non-erodible elements.
- 505.8** An alternative test method approved in writing by the Control Officer and the Administrator.

**506 CERTIFIED STREET SWEEPING EQUIPMENT LIST ~~ADOPTED~~ INCORPORATED BY REFERENCE:** The list of street sweeping equipment (as of July 9, 2004) that has met the South Coast Air Quality Management Rule 1186 certification standards is found in support documents for the South Coast Air Quality Management District Regulation XI-Source Specific Standards, Rule 1186-PM<sub>10</sub> Emissions From Paved And Unpaved Roads And Livestock Operations and is ~~adopted~~ incorporated by reference. A copy of the list of certified street sweeping equipment can also be obtained at Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, Arizona, 85004.

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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  
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**CORRECTIONS**

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R12-1-1210.	RC-813	R12-1-1503.	RC-813	R12-1-1979.	RC-813
R12-1-1211.	RC-813	R12-1-1504.	RC-813	R12-1-1981.	RC-813
R12-1-1212.	RC-813	R12-1-1505.	RC-813	R12-1-19101.	RC-813
R12-1-1213.	RC-813	R12-1-1506.	RC-813	R12-1-19103.	RC-813
R12-1-1214.	RC-813	R12-1-1507.	RC-813	R12-1-19105.	RC-813
R12-1-1215.	RC-813	R12-1-1508.	RC-813	R12-1-19107.	RC-813
R12-1-1216.	RC-813	R12-1-1509.	RC-813	R12-1-19109.	RC-813
R12-1-1217.	RC-813	R12-1-1510.	RC-813	Appendix A.	RC-813
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Table A.	RC-813	R12-1-1702.	RC-813	R2-8-104.	PM-495
R12-1-1301.	RC-813	R12-1-1703.	RC-813	R2-8-116.	PM-495
R12-1-1302.	RC-813	R12-1-1712.	RC-813	R2-8-118.	PM-495
R12-1-1303.	RC-813	R12-1-1713.	RC-813	R2-8-122.	PM-495
R12-1-1304.	RC-813	R12-1-1714.	RC-813	R2-8-124.	PM-495
R12-1-1305.	RC-813	R12-1-1715.	RC-813	R2-8-125.	PM-495
R12-1-1306.	RC-813	R12-1-1716.	RC-813	<b>Revenue, Department of - Transaction Privilege and Use Tax Section</b>	
R12-1-1307.	RC-813	R12-1-1717.	RC-813	R15-5-601.	FM-742
R12-1-1308.	RC-813	R12-1-1718.	RC-813	<b>Secretary of State, Office of the</b>	
R12-1-1309.	RC-813	R12-1-1719.	RC-813	R2-12-1102.	FM-137
Table 1.	RC-813	R12-1-1720.	RC-813	Exhibit 1.	FN-137
R12-1-1401.	RC-813	R12-1-1721.	RC-813	<b>State Parks Board, Arizona</b>	
R12-1-1402.	RC-813	R12-1-1722.	RC-813	Exhibit A.	FXM-699
R12-1-1403.	RC-813	R12-1-1723.	RC-813	<b>Transportation, Department of - Administration</b>	
R12-1-1404.	RC-813	R12-1-1724.	RC-813	R17-1-701.	FN-673
R12-1-1405.	RC-813	R12-1-1725.	RC-813	R17-1-702.	FN-673
R12-1-1406.	RC-813	R12-1-1726.	RC-813	R17-1-703.	FN-673
R12-1-1407.	RC-813	R12-1-1727.	RC-813	R17-1-704.	FN-673
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R12-1-1409.	RC-813	R12-1-1731.	RC-813	R17-1-706.	FN-673
R12-1-1410.	RC-813	R12-1-1732.	RC-813	R17-1-707.	FN-673
R12-1-1412.	RC-813	R12-1-1733.	RC-813	R17-1-708.	FN-673
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R12-1-1415.	RC-813	R12-1-1742.	RC-813	R17-1-711.	FN-673
R12-1-1416.	RC-813	R12-1-1743.	RC-813	R17-1-712.	FN-673
R12-1-1418.	RC-813	R12-1-1751.	RC-813	R17-1-713.	FN-673
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R12-1-1423.	RC-813	R12-1-1905.	RC-813	R17-5-801.	FEM-279
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R12-1-1426.	RC-813	R12-1-1909.	RC-813	R17-5-803.	FEM-279
R12-1-1427.	RC-813	R12-1-1911.	RC-813	R17-5-804.	FEM-279
R12-1-1429.	RC-813	R12-1-1921.	RC-813	R17-5-805.	FEM-279
R12-1-1433.	RC-813	R12-1-1923.	RC-813	R17-5-806.	FEM-279
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R12-1-1441.	RC-813	R12-1-1947.	RC-813		
R12-1-1442.	RC-813	R12-1-1949.	RC-813		
R12-1-1443.	RC-813	R12-1-1951.	RC-813		
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			F#-239;	R18-15-602.	FM-239
			FM-239	R18-15-701.	FM-239

**OTHER NOTICES AND PUBLIC RECORDS INDEX**

Other notices related to rulemakings are listed in the Index by notice type, agency/county and by volume page number. Agency policy statements and proposed delegation agreements are included in this section of the Index by volume page number. Public records, such as Governor Office executive orders, proclamations, declarations and terminations of emergencies, summaries of Attorney General Opinions, and county notices are also listed in this section of the Index and published by volume page number.

**THIS INDEX INCLUDES OTHER NOTICE ACTIVITY THROUGH ISSUE 18 OF VOLUME 24.**

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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.

January		February		March		April		May		June	
Date Filed	Effective Date										
1/1	3/2	2/1	4/2	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/3	2/2	4/3	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/4	2/3	4/4	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/5	2/4	4/5	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/6	2/5	4/6	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/7	2/6	4/7	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/8	2/7	4/8	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/9	2/8	4/9	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/10	2/9	4/10	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/11	2/10	4/11	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/12	2/11	4/12	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/13	2/12	4/13	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/14	2/13	4/14	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/15	2/14	4/15	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/16	2/15	4/16	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/17	2/16	4/17	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/18	2/17	4/18	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/19	2/18	4/19	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/20	2/19	4/20	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/21	2/20	4/21	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/22	2/21	4/22	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/23	2/22	4/23	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/24	2/23	4/24	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/25	2/24	4/25	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/26	2/25	4/26	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/27	2/26	4/27	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/28	2/27	4/28	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/29	2/28	4/29	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/30			3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/31			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	4/1			3/31	5/30			5/31	7/30		



July		August		September		October		November		December	
Date Filed	Effective Date										
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1	12/2	1/31
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2	12/3	2/1
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3	12/4	2/2
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4	12/5	2/3
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5	12/6	2/4
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6	12/7	2/5
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7	12/8	2/6
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8	12/9	2/7
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9	12/10	2/8
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10	12/11	2/9
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11	12/12	2/10
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12	12/13	2/11
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13	12/14	2/12
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 23, 2018	April 13, 2018	May 14, 2018
March 30, 2018	April 20, 2018	May 21, 2018
April 6, 2018	April 27, 2018	May 29, 2018
April 13, 2018	May 4, 2018	June 4, 2018
April 20, 2018	May 11, 2018	June 11, 2018
April 27, 2018	May 18, 2018	June 18, 2018
May 4, 2018	May 25, 2018	June 25, 2018
May 11, 2018	June 1, 2018	July 2, 2018
May 18, 2018	June 8, 2018	July 9, 2018
May 25, 2018	June 15, 2018	July 16, 2018
June 1, 2018	June 22, 2018	July 23, 2018
June 8, 2018	June 29, 2018	July 30, 2018
June 15, 2018	July 6, 2018	August 6, 2018
June 22, 2018	July 13, 2018	August 13, 2018
June 29, 2018	July 20, 2018	August 20, 2018
July 6, 2018	July 27, 2018	August 27, 2018
July 13, 2018	August 3, 2018	September 4, 2018
July 20, 2018	August 10, 2018	September 10, 2018
July 27, 2018	August 17, 2018	September 17, 2018
August 3, 2018	August 24, 2018	September 24, 2018
August 10, 2018	August 31, 2018	October 1, 2018
August 17, 2018	September 7, 2018	October 9, 2018
August 24, 2018	September 14, 2018	October 15, 2018
August 31, 2018	September 21, 2018	October 22, 2018
September 7, 2018	September 28, 2018	October 29, 2018
September 14, 2018	October 5, 2018	November 5, 2018
September 21, 2018	October 12, 2018	November 13, 2018
September 28, 2018	October 19, 2018	November 19, 2018
October 5, 2018	October 26, 2018	November 26, 2018
October 12, 2018	November 2, 2018	December 3, 2018



### 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 <http://grrc.az.gov>.

#### GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2018

[M18-01]

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
Tuesday November 21, 2017	Tuesday December 19, 2017	Wednesday January 3, 2018	Tuesday January 9, 2018
Tuesday December 19, 2017	Tuesday January 23, 2018	Tuesday January 30, 2018	Tuesday February 6, 2018
Tuesday January 23, 2018	Tuesday February 20, 2018	Tuesday February 27, 2018	Tuesday March 6, 2018
Tuesday February 20, 2018	Tuesday March 20, 2018	Tuesday March 27, 2018	Tuesday April 3, 2018
Tuesday March 20, 2018	Tuesday April 17, 2018	Tuesday April 24, 2018	Tuesday May 1, 2018
Tuesday April 17, 2018	Tuesday May 22, 2018	Wednesday May 30, 2018	Tuesday June 5, 2018
Tuesday May 22, 2018	Tuesday June 19, 2018	Tuesday June 26, 2018	Tuesday July 10, 2018
Tuesday June 19, 2018	Tuesday July 24, 2018	Tuesday July 31, 2018	Tuesday August 7, 2018
Tuesday July 24, 2018	Tuesday August 21, 2018	Tuesday August 28, 2018	Wednesday September 5, 2018
Tuesday August 21, 2018	Tuesday September 18, 2018	Tuesday September 25, 2018	Tuesday October 2, 2018
Tuesday September 18, 2018	Tuesday October 23, 2018	Tuesday October 30, 2018	Tuesday November 6, 2018
Tuesday October 23, 2018	Tuesday November 20, 2018	Tuesday November 27, 2018	Tuesday December 4, 2018
Tuesday November 20, 2018	Tuesday December 18, 2018	Thursday January 3, 2019	Tuesday January 8, 2019
Tuesday December 18, 2018	Tuesday January 22, 2019	Tuesday January 29, 2019	Tuesday February 5, 2019

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



**GOVERNOR'S REGULATORY REVIEW COUNCIL  
NOTICE OF ACTION TAKEN AT THE MAY 1, 2018 MEETING**

[M18-45]

*Rules:***DEPARTMENT OF TRANSPORTATION (R-18-0501)**

Title 17, Chapter 4, Article 5, Safety; Article 7, Hazardous Materials Endorsement

**Amend:** R17-4-501; R17-4-508; R17-4-701; R17-4-702; R17-4-705; R17-4-706; R17-4-707; R17-4-709;  
R17-4-710; R17-4-712

**Repeal:** R17-4-507

COUNCIL ACTION: **APPROVED**

**DEPARTMENT OF TRANSPORTATION (R-18-0502)**

Title 17, Chapter 5, Article 2, Motor Carriers

**Amend:** R17-5-202; R17-5-203; R17-5-205; R17-5-206; R17-5-208; R17-5-209; R17-5-212

COUNCIL ACTION: **APPROVED**

**CONSTABLE ETHICS, STANDARDS AND TRAINING BOARD (R-18-0503)**

Title 13, Chapter 14, Constable Ethics, Standards and Training Board

**New Article:** Article 1; Article 2; Article 3

**New Section:** R13-14-101; R13-14-102; R13-14-103; R13-14-201; R13-14-202; R13-14-203; R13-14-204; R13-14-205;  
R13-14-301; R13-14-302

COUNCIL ACTION: **APPROVED**

**DEPARTMENT OF HOUSING (R-18-0504)**

Title 4, Chapter 34, Board of Manufactured Housing

**Amend:** R4-34-101; R4-34-102; R4-34-103; R4-34-201; R4-34-202; R4-34-203; R4-34-204; R4-34-301;  
R4-34-302; R4-34-303; R4-34-401; R4-34-402; R4-34-501; R4-34-502; R4-34-504; R4-34-505;  
R4-34-603; R4-34-605; R4-34-606; R4-34-607; R4-34-701; R4-34-702; R4-34-703; R4-34-704;  
R4-34-705; R4-34-706; R4-34-801; R4-34-802; R4-34-805; R4-34-1001

**New Section:** R4-34-707

**Repeal:** R4-34-104; R4-34-503; R4-34-506; R4-34-601; R4-34-604; R4-34-803; R4-34-804

COUNCIL ACTION: **APPROVED**

COUNCIL ACTION: **REVIEW REPORT ON R4-34-204, R4-34-501, AND R4-34-502 REQUIRED BY NOVEMBER 15, 2018**

**AHCCCS (R-18-0505)**

Title 9, Chapter 22, Article 7, Standard for Payments

**Amend:** R9-22-718

COUNCIL ACTION: **APPROVED**

*Five-Year Review Reports:***DEPARTMENT OF HEALTH SERVICES (F-18-0501)**

Title 9, Chapter 6, Article 12, Tuberculosis Control

COUNCIL ACTION: **APPROVED**

**DEPARTMENT OF HEALTH SERVICES (F-18-0502)**

Title 9, Chapter 10, Article 9, Outpatient Surgical Centers

COUNCIL ACTION: **APPROVED**

**DEPARTMENT OF HEALTH SERVICES (F-18-0503)**

Title 9, Chapter 10, Article 17, Unclassified Health Care Institutions

COUNCIL ACTION: **APPROVED**



**DEPARTMENT OF AGRICULTURE (F-18-0504)**

Title 3, Chapter 5, Article 1, Sampling and Laboratory Certification

COUNCIL ACTION: **APPROVED**

**GREATER ARIZONA DEVELOPMENT AUTHORITY (F-18-0505)**

Title 20, Chapter 8, All Articles

COUNCIL ACTION: **APPROVED**

**LAND DEPARTMENT (F-18-0405)**

Title 12, Chapter 5, Article 5, Leases

COUNCIL ACTION: **TABLED**