



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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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

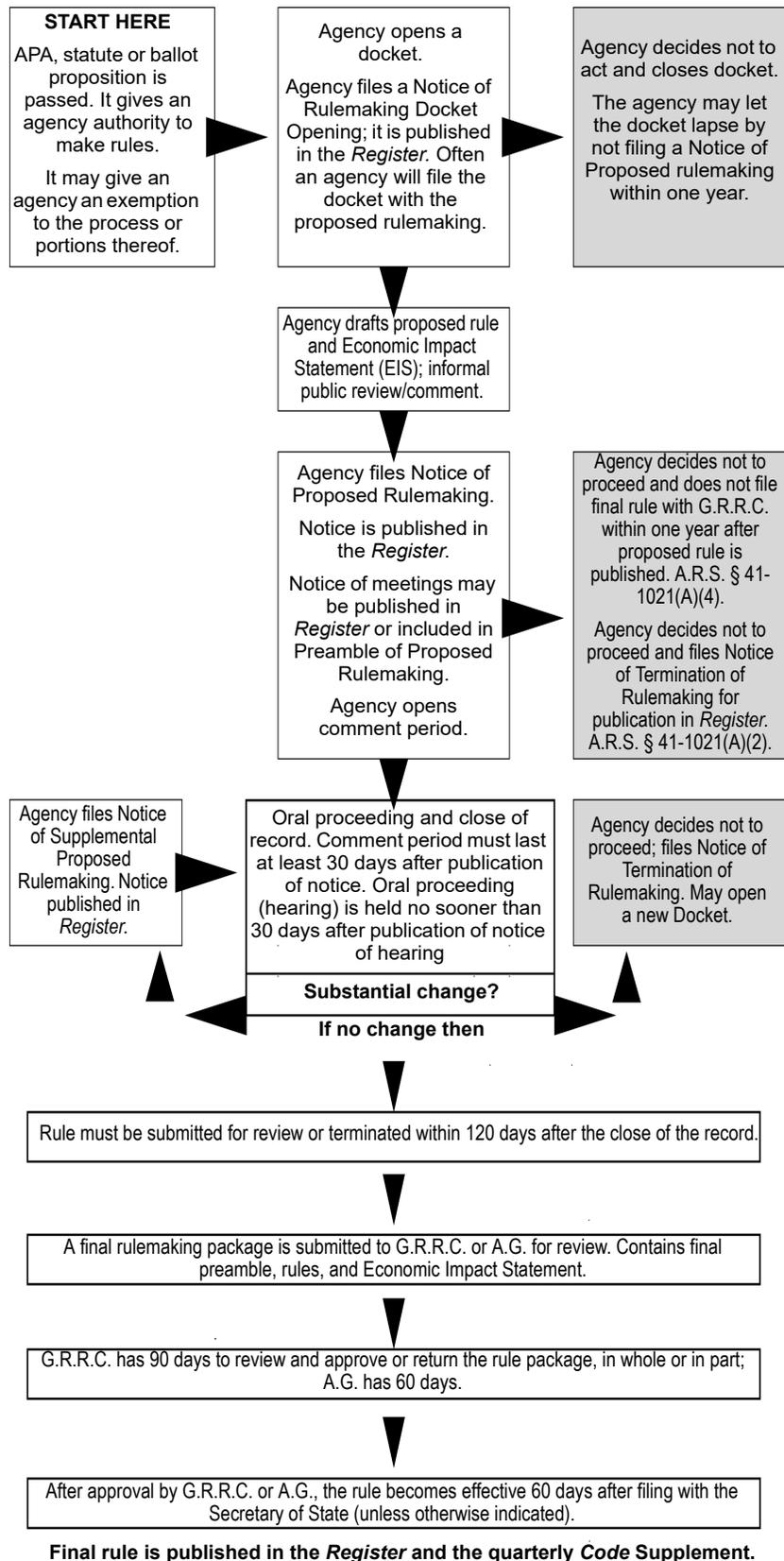
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## 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 PROPOSED RULEMAKING**

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

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the *Administrative Procedure Act* (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any oral proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

**NOTICE OF PROPOSED RULEMAKING  
TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 21. BOARD OF OPTOMETRY**

[R18-133]

**PREAMBLE**

- |                                                                    |                                 |
|--------------------------------------------------------------------|---------------------------------|
| <b><u>1. Article, Part or Section affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
| R4-21-101                                                          | Amend                           |
| R4-21-209                                                          | Amend                           |
| R4-21-210                                                          | Amend                           |
| R4-21-211                                                          | Amend                           |
- 2. Citations to the agency's rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. § 32-1704(A)  
 Implementing statute: A.R.S. §§ 32-1701 et seq.
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rules:**  
 Notice of Rulemaking Docket Opening: 24 A.A.R. 1753 June 22, 2018
- 4. The agency's contact person who can answer questions about the rulemaking:**  
 Name: Margaret Whelan  
 Address: Arizona State Board of Optometry  
 1740 W. Adams St., Suite 3003  
 Phoenix, AZ 85007  
 Telephone: (602) 542-8155  
 Fax: (602) 883-7253  
 E-mail: [margaret.whelan@optometry.az.gov](mailto:margaret.whelan@optometry.az.gov)  
 Website: [www.optometry.az.gov](http://www.optometry.az.gov)
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**  
 The Board is updating its rules to make them more clear, concise and consistent with statute and current agency and industry practice. A law change was implemented/effective April 26, 2018, for which there is currently no rule to support the changes. There is, in the new law, a new requirement for Continuing Medical Education that must be addressed through rule, terms are used in law that are not defined in rule or elsewhere; without definition or clarification in rule, there may be no support or successful enforcement of the new law. The profession may not be able to comply with the change to law pertaining to continuing education and the public may not be as well protected as a result.
- 6. A reference to any study relevant to the rules that the agency reviewed and proposes either 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:**  
 None
- 7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**  
 Not applicable



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

The rulemaking makes no substantive changes. It will have minimal, if any, economic impact to current licensees only. There is no economic impact to the public.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Margaret Whelan  
Address: Arizona State Board of Optometry  
1740 W. Adams St., Suite 3003  
Phoenix, AZ 85007  
Telephone: (602) 542-8155  
Fax: (602) 883-7253  
E-mail: [margaret.whelan@optometry.az.gov](mailto:margaret.whelan@optometry.az.gov)  
Website: [www.optometry.az.gov](http://www.optometry.az.gov)

**10. The time, place, and nature of the proceedings to make, amend, repeal or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

An oral proceeding regarding the proposed rules will not be held. Any and all comments regarding these proposed rules may be submitted directly to the Arizona State Board of Optometry via the following methods:

1. E-mail to Margaret Whelan, Executive Director at [margaret.whelan@optometry.az.gov](mailto:margaret.whelan@optometry.az.gov)
2. FAX to the Arizona State Board of Optometry at (602) 883-7253
3. Website at [www.optometry.az.gov](http://www.optometry.az.gov) using the public information request form under the "Public Information Requests" box
4. In person at the Board offices: 1740 W. Adams St., Suite 3003, Phoenix, AZ 85007
5. Mail to the Board offices at: 1740 W. Adams Street, Suite 3003, Phoenix, AZ 85007

The rulemaking record will close at 5:00 p.m. on September 4, 2018.

**11. 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:**

- a. **Whether the rule requires a permit, whether general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
- b. **Whether federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation into 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 rules impact of the competitiveness of business in the state to the impact on business in other states:**  
None

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

None

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 21. BOARD OF OPTOMETRY**

**ARTICLE 1. GENERAL PROVISIONS**

Section  
R4-21-101. Definitions

**ARTICLE 2. LICENSING PROVISIONS**

Section  
R4-21-209. Continuing Education Requirement  
R4-21-210. Approval of Continuing Education  
R4-21-211. Audit of Compliance with Continuing Education Requirement

**ARTICLE 1. GENERAL PROVISIONS**

**R4-21-101. Definitions**

In addition to the definitions in A.R.S. § 32-1701, the following apply to this Chapter:

- “Accredited” means approved by the ACOE.
- “ACCME” means Accreditation Council for Continuing Medical Education
- “ACOE” means the Accreditation Council on Optometric Education.



“Active license” means a license that is current and has not expired.

“Advertisement” means a written, oral, or electronic communication that an ordinary person would perceive is designed to influence, directly or indirectly, a decision regarding ophthalmic goods or optometric services.

“Applicant” means:

An individual who applies to the Board under A.R.S. §§ 32-1722 or 32-1723 and A.A.C. R4-21-201 or R4-21-202 for a license to practice the profession of optometry, but has not been granted the license;

A licensee who applies under A.R.S. § 32-1726 and R4-21-205 for license renewal;

A licensee who applies under A.R.S. § 32-1728 and R4-21-208 for a pharmaceutical agent number;

A licensee or provider of Continuing Education that applies for approval of a Continuing Education under R4-21-210

“Application package” means the forms, documents, and fees that the Board requires an applicant to submit or have submitted on the applicant’s behalf.

“Approved Continuing Education” means a planned educational experience relevant to the practice of the profession of optometry that the Board determines meets the criteria at R4-21-210.

“ARBO” means the Association of Regulatory Boards of Optometry.

“Audit” means the selection of licensees and process of reviewing documents for verification of satisfactory completion of Continuing Education requirements during a specified time period.

“CPR” means Cardiopulmonary Resuscitation.

“CELMO” means the Council on Endorsed Licensure Mobility for Optometrists.

“Certificate of special qualification” means a document that specifies whether the holder, who was licensed by the Board before July 1, 2000, and has not completed a course of study approved by the Board, may prescribe, administer, and dispense a pharmaceutical agent and if so, whether the holder may prescribe, administer, and dispense:

A topical diagnostic pharmaceutical agent only, or

Topical diagnostic and topical therapeutic pharmaceutical agents.

“Continuing Education” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Continuing Education Report” means an online education report used to electronically track Continuing Education hours taken by a licensee.

“COPE” means the Council on Optometric Practitioner Education.

“Course of study” as used in A.R.S. § 32-1722, means education approved by the Board under R4-21-207 that qualifies an optometrist to prescribe, administer, and dispense topical diagnostic, topical therapeutic, and oral pharmaceutical agents.

“DEA” means The Drug Enforcement Administration

“Drug Enforcement Administration” means the Drug Enforcement Administration in the Department of Justice.

“DEA Controlled Substance Registration” means registration required and permitted by 21 U.S.C. 823 of the Controlled Substances Act.

“Injectable Epinephrine” means an intramuscular dose of epinephrine used for emergency treatment of an allergic reaction and delivered by a spring-loaded syringe.

“Good cause” means a reason that is substantial enough to afford a legal excuse.

“Hour of Continuing Education” means no less than 50 minutes of learning in one hour of time.

“Incompetence,” as used in A.R.S. § 32-1701(8), means lack of professional skill, fidelity, or physical or mental fitness, or substandard examination or treatment while practicing the profession of optometry.

“Low vision” means chronic impairment to vision that significantly interferes with daily routine activities and cannot be adequately corrected with medical, surgical, or therapeutic means or conventional eyewear or contact lenses.

“Low-vision rehabilitation” means use of optical and non-optical devices, adaptive techniques, and community resources to assist an individual to compensate for low vision in performing daily routine activities.

“Negligence,” as used in A.R.S. § 32-1701(8), means conduct that falls below the standard of care for the protection of patients and the public against unreasonable risk of harm and that is a departure from the conduct expected of a reasonably prudent licensee under the circumstances.

“OE Tracker” means the ARBO Online Education Tracker used to electronically track Continuing Education hours taken by a licensee.

“Opiate” or “Opioid” means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.



“Oral pharmaceutical agent,” as used in A.R.S. § 32-1728, means an ingested prescription or non-prescription substance used to examine, diagnose, or treat disease of the eye and its adnexa.

“Party” has the same meaning as prescribed in A.R.S. § 41-1001.

“Plano lenses” means contact lenses that have cosmetic function only.

“Practice management” means the study of management of the affairs of optometric practice.

“Self-instructed media” means educational material in a printed, audio, video, electronic or distance learning format.

“Topical diagnostic pharmaceutical agent,” as used in A.R.S. § 32-1728, means an externally applied prescription or non-prescription substance used to examine and diagnose disease and conditions of the eye and its adnexa.

“Topical therapeutic pharmaceutical agent,” as used in A.R.S. § 32-1728, means an externally applied prescription or non-prescription substance used to treat disease of the eye and its adnexa.

“Vision rehabilitation” means an individualized course of treatment and education prescribed to improve conditions of the human eye or adnexa or develop compensatory approaches. Vision rehabilitation is designed to help individuals learn, relearn, or reinforce specific vision skills, including eye movement control, focusing control, eye coordination, and the teamwork of the two eyes. Vision rehabilitation includes, but is not limited to optical, non-optical, electronic, or other assistive treatments.

**R4-21-209. Continuing Education Requirement**

- A. A licensee shall complete 32 hours of approved Continuing Education during each biennial license renewal period. The licensee shall ensure that in each biennial license renewal period:
  - 1. At least eight hours of the approved Continuing Education is in the area of diagnosis, treatment, and management of disease of the human eye and its adnexa and pharmaceutical use appropriate to the authority held by the licensee;
  - 2. For licensees holding a current DEA Registration, at least three hours of the approved Continuing Education shall be obtained in the area of opioid-related, substance use disorder-related or addiction-related Continuing Education.
  - ~~2.3.~~ No more than 12 hours of the approved Continuing Education shall be obtained through self-instructed media. All self-instructed media shall be COPE or ACCME approved.
  - ~~3.4.~~ No more than four hours of the approved Continuing Education are in the area of practice management;
  - ~~4.5.~~ No more than one hour of approved Continuing Education is claimed for each day of instruction in a course of study approved under R4-21-207 to a maximum of four hours; and
  - ~~5.6.~~ No more than four hours of approved Continuing Education are claimed for publishing or presenting a paper, report, or book that deals with current developments, skills, procedures, or treatments related to the practice of the profession of optometry.
  - ~~6.7.~~ No more than one (1) hour of Continuing Education requirements shall be claimed for obtaining CPR certification.
- B. If a licensee obtains more than 32 hours of approved Continuing Education during a biennial renewal period, the licensee shall not claim the extra hours of approved Continuing Education during a subsequent biennial renewal period.
- C. During the biennial renewal period in which a licensee is first licensed, the licensee shall obtain a prorated number of hours of approved Continuing Education for each month remaining in the biennial renewal period. The hours shall be calculated at four hours per quarter of a year to include the quarter in which the application for licensure is approved by the Board.
- D. A licensee shall not claim as approved Continuing Education any educational program or course completed before being licensed in Arizona.
- E. A licensee shall obtain a certificate or other evidence of attendance from the provider of each approved Continuing Education attended that includes the following:
  - 1. Name of the licensee,
  - 2. License number of the licensee,
  - 3. Name of the approved Continuing Education,
  - 4. Name of the Continuing Education provider,
  - 5. Date, time, and location of the approved Continuing Education, and
  - 6. Number of hours of approved Continuing Education and number of hours relating to practice management.
- F. For the purpose of license renewal, Continuing Education shall be verified through the ARBO OE Tracker ~~Program~~ or other comparable program, using the licensee’s individual ~~OE Tracker~~ Continuing Education report.
- G. A licensee shall maintain the ~~OE Tracker~~ report or other evidence of attendance described in subsection (E) for at least two years from the date of attendance.
- H. A licensee shall submit to the Board a copy of the ~~OE Tracker~~ report obtained during a biennial renewal period as proof of attendance at Continuing Education courses, ~~if subject to an audit by the Board under R4-21-211.~~

**R4-21-210. Approval of Continuing Education**

- A. The Board approves the following as Continuing Education:
  - 1. An internship, residency, or fellowship attended at an educational institution with an accredited optometry program; and
  - 2. An educational program designed to provide understanding of current developments, procedures, or treatments, or improve skills related to the practice of the profession of optometry and:
    - a. Provided by an educational institution with an accredited optometry program; or
    - b. Sponsored or approved by the Association of Schools and Colleges of Optometry, The Council on Optometric Practitioner Education, Accreditation Council for Continuing Medical Education or a local, regional, or national optometric association.
  - 3. Any opioid-related course that is approved by the Arizona State Board of Optometry, Arizona State Board of Pharmacy, Arizona Board of Osteopathic Examiners, Arizona Medical Board or the Arizona State Board of Nursing.
- B. To obtain approval of a Continuing Education that is not approved under subsection (A), the provider of the Continuing Education or a licensee shall, before providing or participating in the Continuing Education:



1. Submit an application for approval, using a form that is available from the Board, and provide the following information:
    - a. Name of applicant,
    - b. Address and telephone number of applicant,
    - c. Provider of the Continuing Education,
    - d. Name and telephone number of a contact person with the Continuing Education provider,
    - e. Name of the Continuing Education,
    - f. Date and location of the Continuing Education,
    - g. Manner in which potential participants will be notified that the Continuing Education is available,
    - h. Number of hours of the Continuing Education and the number of hours that relate to practice management,
    - i. Name of instructor of the Continuing Education, and
    - j. Dated signature of the applicant;
  2. Submit a curriculum vitae for the instructor of the Continuing Education; and
  3. Submit a syllabus of the Continuing Education that identifies learning objectives, teaching methods, and content.
- C. The provider of an approved Continuing Education shall provide each participant with a certificate or other evidence of attendance that meets the standards at R4-21-209(E).
- D. The Board shall approve a Continuing Education if the application required under subsection (B) is submitted and the Board determines that the Continuing Education is designed to provide understanding of current developments, procedures, or treatments, or improve skills related to the practice of the profession of optometry.

**R4-21-211. Audit of Compliance with Continuing Education Requirement**

- A. At the time of license renewal, the Board shall ~~audit provide notice of an audit of~~ Continuing Education ~~hours to determine compliance with R4-21-209, records to a random sample of licensees.~~ A licensee subject to a Continuing Education audit shall submit documentation that demonstrates compliance with the Continuing Education requirement at the same time the licensee submits the license renewal application form required under R4-21-205.
- B. To perform an audit, the Board shall use the information entered into the ARBO OE Tracker software ~~or other comparable Board approved program~~ to perform its audit. The Board shall consider a licensee’s Continuing Education requirement met if the licensee has recorded the required number of Continuing Education credits into the OE tracker.
- C. At the time of license renewal, each licensee shall certify to the Board, through a ~~Continuing Education an OE Tracker~~ report, completion of the Continuing Education required for license renewal. In the event that Continuing Education credits are not able to be recorded in the ~~report, OE Tracker~~, a licensee may submit to the Board certificates of attendance for those hours only to meet the Continuing Education requirement. A licensee may not renew the license until required Continuing Education hours are submitted.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION**

[R18-136]

**PREAMBLE**

1. **Article, Part, or Section Affected (as applicable)** **Rulemaking Action**  
 R9-22-712.05 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. § 36-2903.01  
 Implementing statute: A.R.S. § 36-2903.01
3. **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
 Notice of Rulemaking Docket Opening: 24 A.A.R. 2094, July 27, 2018 (*in this issue*)
4. **The agency’s contact person who can answer questions about the rulemaking:**  
 Name: Nicole Fries  
 Address: AHCCCS  
 Office of Administrative Legal Services  
 701 E. Jefferson, Mail Drop 6200  
 Phoenix, AZ 85034  
 Telephone: (602) 417-4232  
 Fax: (602) 253-9115  
 E-mail: AHCCCSRules@azahcccs.gov  
 Web site: www.azahcccs.gov
5. **An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**  
 A.R.S. § 36-2903.01 requires the Administration to describe in rule how Graduate Medical Education (GME) funds are calculated and distributed. The intention of this rulemaking is to modify the method of allocating funds for indirect GME costs. Pursuant to A.R.S. § 36-2903.01(G)(9), certain public entities are permitted to transfer funds to the AHCCCS Administration to support these distributions. The Centers for Medicare and Medicaid Services (CMS) require the AHCCCS Administration to annually update the



amount allocated to each hospital in the State Plan. Before AHCCCS may make GME payments, a State Plan Amendment (SPA) must be submitted and approved by CMS.

Currently, indirect GME costs are calculated two different ways and the AHCCCS Administration allocates indirect GME based on the greatest of these two methodologies. Children’s hospitals are unable to submit information to the Centers for Medicare and Medicaid Services on the Medicare Cost Reports Worksheet E, Part A. Since AHCCCS uses information on Worksheet E, Part A as one way to calculate the Indirect GME costs, there is only one methodology for calculating indirect GME costs for children’s hospitals.

AHCCCS proposes allowing an alternative method for calculating Indirect GME for children’s hospitals whereby a median per resident total indirect GME cost is determined for all hospitals which supply such information on the Medicare Cost Report. The median per resident total indirect cost would then be multiplied by the number of allocated residents at a children’s hospital and the Medicaid utilization percent used to determine the direct GME component.

**6. 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:**

A study was not referenced or relied upon when revising these regulations.

**7. 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

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

The AHCCCS Administration estimates this will result in an additional allocation of \$8.4 million for one Arizona hospital. No hospitals will negatively be impacted by this change, and none of the GME hospitals are small businesses. The AHCCCS program is jointly funded by the State and the federal government through the Medicaid program.

**9. The agency’s contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Nicole Fries  
Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4232  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov  
Website: www.azahcccs.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Proposed rule language will be available on the AHCCCS website. Please send comments to the above address by the close of the comment period, 5:00 p.m., September 4, 2018.

Date: September 4, 2018  
Time: 2:00 p.m.  
Location: AHCCCS  
701 E. Jefferson  
Phoenix, AZ 85034  
Nature: Public Hearing

Date: September 4, 2018  
Time: 2:00 p.m.  
Location: ALTCS: Arizona Long-Term Care System  
1010 N. Finance Center Dr., Suite 201  
Tucson, AZ 85710  
Nature: Public Hearing

Date: September 4, 2018  
Time: 2:00 p.m.  
Location: 2717 N. 4th St., Suite 130  
Flagstaff, AZ 86004  
Nature: Public Hearing

**11. 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 have been 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:**

Not applicable



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

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.

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

None

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ADMINISTRATION**

**ARTICLE 7. STANDARDS FOR PAYMENTS**

Section

R9-22-712.05. Graduate Medical Education Fund Allocation

**ARTICLE 7. STANDARDS FOR PAYMENTS**

**R9-22-712.05. Graduate Medical Education Fund Allocation**

- A.** Graduate medical education (GME) reimbursement as of September 30, 1997. Subject to legislative appropriation, the Administration shall make a distribution based on direct graduate medical education costs as described in A.R.S. § 36-2903.01(G)(9)(a).
- B.** Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for the expansions of GME programs approved by the Administration to hospitals for direct program costs eligible for funding under A.R.S. § 36-2903.01(G)(9)(b). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (B)(3).
1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (B) if all of the following apply:
    - a. It is a hospital in Arizona that is the sponsoring institution of, or a participating institution in, one or more of the GME programs in Arizona;
    - b. It incurs direct costs for the training of residents in the GME programs, which costs are or will be reported on the hospital's Medicare Cost Report;
    - c. It is not administered by or does not receive its primary funding from an agency of the federal government.
  2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (B)(4) the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B)(1)(c):
    - a. Filled resident positions in approved programs established as of October 1, 1999 at hospitals that receive funding as described in A.R.S. § 36-2903.01(G)(9)(a) that are additional to the number of resident positions that were filled as of October 1, 1999; and
    - b. All filled resident positions in approved programs other than GME programs described in A.R.S. § 36-2903.01(G)(9)(a) that were established before July 1, 2006.
  3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (B) shall provide the applicable information listed in this subsection to the Administration:
    - a. A GME program shall provide all of the following:
      - i. The program name and number assigned by the accrediting organization;
      - ii. The original date of accreditation;
      - iii. The names of the sponsoring institution and all participating institutions current as of the date of reporting;
      - iv. The number of approved resident positions and the number of filled resident positions current as of the date of reporting;
      - v. For programs established as of October 1, 1999, the number of resident positions that were filled as of October 1, 1999, if the program has not already provided this information to the Administration;
    - b. A hospital seeking a distribution under subsection (B) shall provide all of the following that apply:
      - i. If the hospital uses the Intern and Resident Information System (IRIS) for tracking and reporting its resident activity to the fiscal intermediary, copies of the IRIS master and assignment files for the hospital's two most recently completed Medicare cost reporting years as filed with the fiscal intermediary;
      - ii. If the hospital does not use the IRIS or has less than two cost reporting years available in the form of the IRIS master and assignment files, the information normally contained in the IRIS master and assignment files in an alternative format for the hospital's two most recently completed Medicare cost reporting years;
      - iii. At the request of the Administration, a copy of the hospital's Medicare Cost Report or any part of the report for the most recently completed cost reporting year.
  4. Allocation of expansion funds. Annually the Administration shall allocate available funds to each approved GME program in the following manner:



- a. Information provided by hospitals under subsection (B)(3)(b) shall be used to determine the program in which each eligible resident is enrolled and the number of days that each eligible resident worked in any area of the hospital complex or in a non-hospital setting under agreement with the reporting hospital during the period of assignment to that hospital. For this purpose, the Administration shall use data relating to the most recent 12-month period that is common to all information provided under subsections (B)(3)(b)(i) and (ii).
  - b. The number of eligible residents allocated to each participating institution within each approved GME program shall be determined as follows:
    - i. Total the number of days determined for each participating institution under subsection (B)(4)(a) and divide each total by 365.
    - ii. Proportionally adjust the result of subsection (B)(4)(b)(i) for each participating institution within each program according to the number of residents determined to be eligible under subsection (B)(2).
  - c. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) shall be adjusted for Arizona Medicaid utilization using the most recent Medicare Cost Report information on file with the Administration as of the date of reporting under subsection (B)(3) and the Administration’s inpatient hospital claims and encounter data for the time period corresponding to the Medicare Cost Report information for each hospital. The Administration shall use only those inpatient hospital claims paid by the Administration and encounters that were adjudicated by the Administration as of the date of reporting under subsection (B)(3). The Medicaid-adjusted eligible residents shall be determined as follows:
    - i. For each hospital, the total AHCCCS inpatient hospital days of care shall be divided by the total Medicare Cost Report inpatient hospital days, multiplied by 100 and rounded up to the nearest multiple of 5 percent.
    - ii. The number of allocated eligible residents determined for each participating hospital under subsection (B)(4)(b)(ii) shall be multiplied by the percentage derived under subsection (B)(4)(c)(i) for that hospital. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) for a participating institution that is not a hospital and not a health care facility made ineligible under subsection (B)(1)(c) shall be multiplied by the percentage derived under subsection (B)(4)(c)(i) for the program’s sponsoring institution or, if the sponsoring institution is not a hospital, the sponsoring institution’s affiliated hospital. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) for a participating institution that is made ineligible under subsection (B)(1)(c) shall be multiplied by zero percent.
  - d. The total allocation for each approved program shall be determined by multiplying the Medicaid-adjusted eligible residents determined under subsection (B)(4)(c)(ii) by the per-resident conversion factor determined below and totaling the resulting dollar amounts for all participating institutions in the program. The per-resident conversion factor shall be determined as follows:
    - i. Calculate the total direct GME costs from the most recent Medicare Cost Reports on file with the Administration for all hospitals that have reported such costs.
    - ii. Calculate the total allocated residents determined under subsection (B)(4)(b)(i) for those hospitals described under subsection (B)(4)(d)(i).
    - iii. Divide the total GME costs calculated under subsection (B)(4)(d)(i) by the total allocated residents calculated under subsection (B)(4)(d)(ii).
5. Distribution of expansion funds. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (B)(4) in the following manner:
- a. The allocated amounts shall be distributed in the following order of priority:
    - i. To eligible hospitals that do not receive funding in accordance with A.R.S. § 36-2903.01(G)(9)(a) for the direct costs of programs established before July 1, 2006;
    - ii. To eligible hospitals that receive funding in accordance with A.R.S. § 36-2903.01(G)(9)(a) for the direct costs of programs established before July 1, 2006;
  - b. The allocated amounts shall be distributed to the eligible hospitals in each approved program in proportion to the number of Medicaid-adjusted eligible residents allocated to each hospital within that program under subsection (B)(4)(c)(ii).
  - c. If funds are insufficient to cover all distributions within any priority group described under subsection (B)(5)(a), the Administration shall adjust the distributions proportionally within that priority group.
- C. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for the expansions of GME programs approved by the Administration to hospitals for direct program costs eligible for funding under A.R.S. § 36-2903.01(G)(9)(c)(i). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (C)(3).
- 1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (C) if it meets all the conditions of subsections (B)(1)(a) through (c).
  - 2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (C)(4), the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B)(1)(c):
    - a. All filled resident positions in approved programs established on or after July 1, 2006; and
    - b. For approved programs established on or after July 1, 2006 that have been established for less than one year as of the date of reporting under subsection (C)(3) and have not yet filled their first-year resident positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match.
  - 3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (C) shall provide to the Administration:
    - a. A GME program shall provide all of the following:
      - i. The requirements of subsections (B)(3)(a)(i) through (iv);



- ii. The academic year rotation schedule on file with the program current as of the date of reporting; and
        - iii. For programs described under subsection (C)(2)(b), the number of residents expected to be enrolled as a result of the most recently completed annual resident match.
      - b. A hospital seeking a distribution under subsection (C) shall provide the requirements of subsection (B)(3)(b).
    - 4. Allocation of expansion funds. Annually the Administration shall allocate available funds to approved GME programs in the following manner:
      - a. Information provided by hospitals in accordance with subsection (B)(3)(b) shall be used to determine the program in which each eligible resident is enrolled and the number of days that each eligible resident worked in any area of the hospital complex or in a non-hospital setting under agreement with the reporting hospital during the period of assignment to that hospital. For this purpose, the Administration shall use data relating to the most recent 12-month period that is common to all information provided in accordance with subsections (B)(3)(b)(i) and (ii).
      - b. For approved programs whose resident activity is not represented in the information provided in accordance with subsection (B)(3)(b), information provided by GME programs under subsection (C)(3)(a) shall be used to determine the number of days that each eligible resident is expected to work at each participating institution.
      - c. The number of eligible residents allocated to each participating institution for each approved GME program shall be determined by totaling the number of days determined under subsections (C)(4)(a) and (b) and dividing the totals by 365.
      - d. The number of allocated residents determined under subsection (C)(4)(c) shall be adjusted for Arizona Medicaid utilization in accordance with subsection (B)(4)(c).
      - e. The total allocation for each approved program shall be determined in accordance with subsection (B)(4)(d).
    - 5. Distribution of expansion funds. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (C)(4) to the eligible hospitals in each approved program in proportion to the number of Medicaid-adjusted eligible residents allocated to each within that program under subsection (C)(4)(d).
  - D. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for GME programs approved by the Administration to hospitals for indirect program costs eligible for funding under A.R.S. § 36-2903.01(G)(9)(c)(ii). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (D)(3).
    - 1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (D) if all of the following apply:
      - a. It is a hospital in Arizona that is the sponsoring institution of, or a participating institution in, one or more of the GME programs in Arizona or is the base hospital for one or more of the GME programs in Arizona whose sponsoring institutions are not hospitals;
      - b. It incurs indirect program costs for the training of residents in the GME programs, which are or will be calculated on the hospital's Medicare Cost Report or are reimbursable under the Children's Hospitals Graduate Medical Education Payment Program administered by HRSA;
      - c. It is not administered by or does not receive its primary funding from an agency of the federal government.
    - 2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (D)(4) the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (D)(1)(c):
      - a. Any filled resident position in an approved program that includes a rotation of at least one month per year in a county other than Maricopa or Pima whose population was less than 500,000 persons at the time the residency rotation was added to the academic year rotation schedule;
      - b. For approved programs that have been established for less than one year as of the date of reporting under subsection (D)(3) and have not yet filled their first-year resident positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match who will perform rotations of at least one month per year in a county other than Maricopa or Pima whose population was less than 500,000 persons at the time the residency rotation was added to the academic year rotation schedule.
    - 3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (D) shall provide to the Administration:
      - a. A GME program shall provide all of the following:
        - i. The requirements of subsections (B)(3)(a)(i) through (iv);
        - ii. The academic year rotation schedule on file with the program current as of the date of reporting;
        - iii. For programs described under subsection (D)(2)(c), the number of residents expected to be enrolled as a result of the most recently completed annual resident match.
      - b. A hospital seeking a distribution under subsection (D) shall provide the requirements of subsection (B)(3)(b)(iii).
    - 4. Allocation of funds for indirect program costs. Annually the Administration shall allocate available funds to approved GME programs in the following manner:
      - a. Using the information provided by programs under subsection (D)(3), the Administration shall determine for each program the number of residents in the program who are eligible under subsection (D)(2) and the number of months per year that each eligible resident will perform rotations in counties described by subsection (D)(2), multiply the number of eligible residents by the number of months and multiply the result by the per resident per month conversion factor determined under subsection (D)(4)(b).
      - b. Using the most recent Medicare Cost Reports on file with the Administration for all hospitals that have calculated a Medicare indirect medical education payment, the Administration shall determine a per resident per month conversion factor as follows:
        - i. Calculate each hospital's Medicare share by dividing the Medicare inpatient discharges on the Medicare Cost Report by the total inpatient hospital discharges on the Medicare Cost Report.



- ii. Calculate the ratio of residents to beds by dividing the total allocated residents described in subsection (B)(4)(d)(ii) by the number of bed days available from the Medicare Cost Report and dividing the result by the number of days in the cost reporting period.
  - iii. Calculate the indirect medical education adjustment factor by adding 1 to the value calculated in (D)(4)(b)(ii), multiplying the result by the exponential value 0.405, subtracting 1 from the result, and multiplying that result by 1.35.
  - iv. Calculate each hospital's total indirect medical education cost by adding the DRG amounts other than outlier payments from the Medicare cost report and the managed care simulated payments from the Medicare Cost Report, multiplying the total by the indirect medical education adjustment factor determined in (D)(4)(b)(iii) and dividing the result by the Medicare share determined in (D)(4)(b)(i).
  - v. Calculate each hospital's Medicaid indirect medical education cost by multiplying the amount determined in (D)(4)(b)(iv) by the value determined in subsection (B)(4)(c)(i).
  - vi. Total the amounts determined in (D)(4)(b)(v) for all hospitals, divide the result by the total allocated residents described in subsection (B)(4)(d)(ii) for all hospitals, and divide that result by 12.
5. Distribution of funds for indirect program costs. On an annual basis subject to available funds, the Administration shall distribute to each eligible hospital the amount calculated for the hospital at subsection (D)(4)(a).
- E. Reallocation of funds. If funds appropriated for subsection (B) are not allocated by the Administration and funds appropriated for subsections (C) and (D) are insufficient to cover all distributions under subsections (C)(5) and (D)(5), the funds not allocated under subsection (B) shall be allocated under subsections (C) and (D) to the extent of the calculated distributions. If funds are insufficient to cover all distributions under subsections (C)(5) and (D)(5), the Administration shall adjust the distributions proportionally. If funds appropriated for subsections (C) and (D) are not allocated by the Administration and funds appropriated for subsection (B) are insufficient to cover all distributions under subsection (B)(5), the funds not allocated under subsections (C) and (D) shall be allocated under subsection (B) to the extent of the calculated distributions.
- F. The Administration may enter into intergovernmental agreements with local, county, and tribal governments wherein local, county and tribal governments may transfer funds or certify public expenditures to the Administration. Such funds or certification, subject to approval by CMS, will be used to qualify for additional federal funds. Those funds will be used for the purposes of reimbursing hospitals that are eligible under subsection (D)(1) and specified by the local, county, or tribal government for indirect program costs other than those reimbursed under subsection (D). The Administration shall allocate available funds in accordance with subsection (D) except that reimbursement with such funds is not limited to resident positions or rotations in counties with populations of less than 500,000 persons. On an annual basis subject to available funds, the Administration shall distribute to each eligible hospital the greatest among the following amounts, less any amounts distributed under subsection (D)(5):
1. The amount that results from multiplying the total number of eligible residents allocated to the hospital under subsection (B)(4)(d)(ii) by 12 by the per resident per month conversion factor determined under subsection (D)(4)(b);
  2. The amount calculated for the hospital at subsection (D)(4)(b)(v); ~~or~~
  3. The median of all amounts calculated at subsection (D)(4)(b)(v) if the hospital does not have an indirect medical education payment calculated on the Medicare Cost Report ~~because it is a new training hospital-; or~~
  4. If the hospital does not have an indirect medical education payment calculated on the Medicare Cost Report because it is a children's hospital, the median Medicaid indirect medical education payment costs calculated as follows:
    - a. For each hospital with indirect medical education costs on the Medicare Cost Report, determine a per resident total indirect medical education cost by dividing the total indirect medical education costs determined under subsection (D)(4)(b) by the number of filled resident positions under subsection (B)(2).
    - b. Determine the median per resident amount under subsection (F)(4)(a).
    - c. For each hospital without an indirect medical education component on the Medicare cost report, multiply the median per resident amount under subsection (F)(4)(b) by the number of filled resident positions under subsection (B)(2) for that hospital and by the Medicaid utilization percent for that hospital determined in subsection (B)(4)(c)(i).

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION**

[R18-137]

**PREAMBLE**

- |                                                                                                                                                                                                                                                           |                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| <b>1. <u>Article, Part, or Section Affected (as applicable)</u></b><br>R9-22-721                                                                                                                                                                          | <b><u>Rulemaking Action</u></b><br>Amend |
| <b>2. <u>Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):</u></b><br>Authorizing statute: A.R.S. § 36-2905.03<br>Implementing statutes: A.R.S. § 36-2905.01 |                                          |
| <b>3. <u>Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:</u></b><br>Notice of Rulemaking Docket Opening: 24 A.A.R. 2094, July 27, 2018 (in this issue)            |                                          |
| <b>4. <u>The agency's contact person who can answer questions about the rulemaking:</u></b><br>Name: Nicole Fries<br>Address: AHCCCS                                                                                                                      |                                          |



Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034

Telephone: (602) 417-4232  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov  
Web site: www.azahcccs.gov

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

During the 2018 legislative session, the Arizona legislature enacted A.R.S. § 36-2905.03 which provided that non-contracted behavioral health inpatient facilities (BHIF's) would be reimbursed at 90% of the contracted rate. This rulemaking is an effort to codify and clarify which facilities this statute applies to.

AHCCCS intends to encourage contracting between providers and all contractors to best serve AHCCCS members who require inpatient stays, regardless of whether the BHIF is contracted. The amended rule will encourage competition among BHIF's and Contractors, expand provider networks, promote administrative efficiencies, and authorize AHCCCS to more efficiently and effectively reimburse BHIF's for inpatient stays. Current federal and state statutory provisions do not prohibit such a change. The proposed rulemaking will also limit AHCCCS Program expenditures to BHIF's in this State by extending applicability of the 90% reimbursement to all AHCCCS Contractors responsible for payments to non-contracted BHIF's. As a result, the rulemaking supports payments to BHIF's that are consistent with efficiency, economy, and quality of care, promoting the fiscal health of the State.

**6. 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:**

A study was not referenced or relied upon when revising these regulations.

**7. 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

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

This rulemaking creates greater opportunities for contracts between contractors and behavioral health inpatient facilities. Based on these changes, the economic impact of this rulemaking will be a savings due to paying 90% of the reimbursement rate BHIF's stays if they are non-contracting. Since the rulemaking may incentivize urban hospitals to contract at a greater rate, exact savings going forward cannot be predicted; however, it is estimated to be over \$2 million less per year.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Nicole Fries  
Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4232  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov  
Web site: www.azahcccs.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Proposed rule language will be available on the AHCCCS website www.azahcccs. Please send written or email comments to the above address by the close of the comment period, 5:00 p.m., September 4, 2018.

Date: September 4, 2018  
Time: 2:00 p.m.  
Location: AHCCCS  
701 E. Jefferson  
Phoenix, AZ 85034  
Nature: Public Hearing

Date: September 4, 2018  
Time: 2:00 p.m.  
Location: ALTCS: Arizona Long-Term Care System  
1010 N. Finance Center Dr., Suite 201  
Tucson, AZ 85710  
Nature: Public Hearing

Date: September 4, 2018  
Time: 2:00 p.m.



Location: 2717 N. 4th St., Suite 130  
Flagstaff, AZ 86004  
Nature: Public Hearing

**11. 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 have been 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 rule does 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:**

Not applicable

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

Not applicable

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ADMINISTRATION**

**ARTICLE 7. STANDARD FOR PAYMENTS**

Section

R9-22-721. ~~Reserved~~ Behavioral Health Inpatient Facilities

**ARTICLE 7. STANDARD FOR PAYMENTS**

**R9-22-721. ~~Reserved~~ Behavioral Health Inpatient Facilities**

"Behavioral health inpatient facility" means a health care institution, other than Arizona State Hospital, that meets the following requirements:

1. Provides continuous treatment to an individual experiencing a behavioral health issue that causes the individual to:
  - a. Have a limited or reduced ability to meet the individual's basic physical needs;
  - b. Suffer harm that significantly impairs the individual's judgment, reason, behavior, or capacity to recognize reality;
  - c. Be a danger to self;
  - d. Be a danger to others;
  - e. Be persistently or acutely disabled as defined in A.R.S. § 36-501; or
  - f. Be gravely disabled; and
2. Is one of the following facility types:
  - a. Psychiatric hospitals;
  - b. Mental health residential treatment centers;
  - c. Secure residential treatment centers with 17 or more beds;
  - d. Non-secure residential treatment centers with 1-16 beds;
  - e. Non-secure residential treatment centers with 17 or more beds;
  - f. Sub-acute facilities with 1-16 beds;
  - g. Sub-acute facilities with 17 or more beds.



**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.

The final published notice includes a preamble and

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 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

[R18-138]

**PREAMBLE**

- |                                                                     |                                 |
|---------------------------------------------------------------------|---------------------------------|
| <b>1. <u>Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
| R20-5-106                                                           | Amend                           |
| R20-5-1301                                                          | Amend                           |
| R20-5-1302                                                          | Amend                           |
| R20-5-1303                                                          | Amend                           |
| R20-5-1309                                                          | Amend                           |
| R20-5-1310                                                          | Amend                           |
| R20-5-1311                                                          | Amend                           |
- 2. Citations to the agency’s statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statutes: A.R.S. §§ 23-107(A)(1); 23-921(B)  
 Implementing statutes: A.R.S. § 23-1062.03; Laws 2017, Ch. 287, § 5
- 3. The effective date of the rules:**  
 October 1, 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):**  
 The Industrial Commission of Arizona (the “Commission”) selected October 1, 2018, as the effective date for the subject rulemaking. As discussed in Item 6, the Commission took formal action on December 21, 2017, to modify the applicability of the *Official Disability Guidelines*, but delayed implementation until October 1, 2018. The delayed implementation date was intended to provide impacted stakeholders with sufficient time to prepare for the expanded applicability of the *Official Disability Guidelines*. The Commission selected October 1, 2018, as the effective date for the subject rulemaking so that the rule changes pertaining to streamlining the authorization process will take effect on the same date as the expanded applicability of the *Official Disability Guidelines*. Good cause exists for the selected effective date and the public interest will not be harmed by the selected date.
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**  
 Notice of Rulemaking Docket Opening: 24 A.A.R. 578, March 16, 2018  
 Notice of Proposed Rulemaking: 24 A.A.R. 565, March 16, 2018
- 5. The agency’s contact person who can answer questions about the rulemaking:**  
 Name: Jason M. Porter  
 Address: Industrial Commission of Arizona  
 Legal Division  
 800 W. Washington St.  
 Phoenix, AZ 85007  
 Telephone: (602) 542-5781  
 Fax: (602) 542-6783  
 E-mail: jason.porter@azica.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:**

In 2012, the Arizona Legislature directed the Commission to “develop and implement a process for the use of evidence-based treatment guidelines, where appropriate, to treat injured workers.” See A.R.S. § 23-1062.03. With significant stakeholder input, the Commission promulgated twelve rules, published in Title 20, Chapter 5, Article 13 of the Arizona Administrative Code (“Article 13” or the “Treatment Guidelines”). Among other things, the Treatment Guidelines: (1) prescribe the use of evidence-based treatment guidelines as a tool to support clinical decision making and quality health care delivery to injured workers within Arizona's workers' compensation system; (2) adopted Work Loss Data Institute's *Official Disability Guidelines – Treatment in Workers Compensation* (the “*Official Disability Guidelines*”) as the standard reference for evidence-based medicine; (3) until further action of the Commission, limited the applicability of the *Official Disability Guidelines* to the management of chronic pain and the use of opioids for all stages of pain management; (4) outlined an administrative process for the Commission to modify the applicability of the *Official Disability Guidelines*; (5) outlined a noncompulsory process for a medical provider or injured worker to seek preauthorization from a payer for medical services or treatment; (6) established an administrative review process to help resolve disputes between medical providers, injured workers, and payers; and (7) outlined procedures for bringing unresolved disputes to the Commission for administrative hearing.

**Streamlining the Treatment Guidelines' Authorization Process**

In 2017, the Arizona Legislature (in Laws 2017, Ch. 287, § 5) directed the Commission to “review and determine a process for streamlining the authorization process for treatment that is within the evidence-based treatment guidelines.” The Legislature required the Commission to complete the review process on or before December 31, 2017.

Consequently, on June 29, 2017, the Commission directed its Medical Resource Office to: (1) conduct a review of the existing authorization process under the Treatment Guidelines; and (2) make a recommendation to the Commission regarding “streamlining the authorization process for treatment that is within the evidence-based treatment guidelines.” Stakeholders were provided opportunities to offer suggestions and comments regarding streamlining the authorization process, including during a public hearing conducted on August 17, 2017. At its December 14, 2017 public meeting, the Commission completed its review of the existing authorization process. Based upon suggestions submitted by interested stakeholders, the Commission approved the following methods for streamlining the Article 13 authorization process:

1. Develop and mandate the use of a Medical Treatment Preauthorization Form with accompanying instructions; and
2. Reduce the time period within which a payer must respond to requests for preauthorization or reconsideration from ten business days to seven business days.

**Modifying the Applicability of the Official Disability Guidelines**

In addition to efforts to streamline the Treatment Guidelines, the Commission carefully studied the propriety of modifying the applicability of the *Official Disability Guidelines* pursuant to A.R.S. § 23-1062.03 and A.A.C. R20-5-1301(C). Under A.A.C. R20-5-1301(B), absent further action of the Commission, the *Official Disability Guidelines* only applied to the management of chronic pain and the use of opioids for all stages of pain management. Under R20-5-1301(C), however, the Commission was authorized to “modify or change the applicability of the guidelines” if the Commission determined that modification or changing the applicability of the guidelines would: (1) improve medical treatment for injured workers; (2) make treatment and claims processing more efficient and cost effective; and (3) the guidelines adequately cover the relevant body parts or conditions.

On June 29, 2017, the Commission directed its Medical Resource Office to conduct an investigation and study regarding the three modification criteria. Consistent with the procedural requirements of R20-5-1301(C), the Commission publicly posted study materials and provided an opportunity for public comment. The Commission conducted a public hearing on November 30, 2017.

On December 21, 2017, following an evaluation of the study materials and stakeholder feedback, the Commission determined (at a public Commission meeting) that modifying the applicability of the *Official Disability Guidelines* to cover all body parts and conditions would improve medical treatment for injured workers and would make treatment and claims processing more efficient and cost effective. In addition, based upon written reviews received from board-certified physicians in Arizona (representing various specialties), the Commission determined that the *Official Disability Guidelines* adequately cover all body parts and conditions. Based on these determinations, the Commission took formal action to modify the applicability of the *Official Disability Guidelines* to all body parts and conditions, effective October 1, 2018.

The subject rulemaking described herein formalizes the Commission's actions, outlined above, and includes the following:

- Amends R20-5-106 (“Commission Forms”) to describe and mandate the use of the Medical Treatment Preauthorization Form.
- Amends R20-5-1301 (“Adoption and Applicability of the Article”) and R20-5-1311 (“Administrative Review by Commission”) to reflect the Commission's December 21, 2017 decision to modify the applicability of the *Official Disability Guidelines* to apply to all body parts and conditions and to state applicable effective dates. (Note: This rulemaking is non-substantive, as the Commission already completed the substantive process for modifying the applicability of the *Official Disability Guidelines* under R20-5-1301(C).)
- Amends R20-5-1303 (“Provider Request for Preauthorization”); R20-5-1309 (“Payer Decision on Request for Preauthorization”); R20-5-1310 (“Payer Reconsideration on Request for Preauthorization”); and R20-5-1311 (“Administrative Review by Commission”) to: (1) mandate the use of the Medical Treatment Preauthorization Form; (2) reduce the time period for a payer to respond to a request for preauthorization or reconsideration from ten business days to seven business days; (3) remove pre-existing requirements for a request for preauthorization, a decision on a request for preauthorization, a decision on a request for reconsideration, and a request for administrative review; and (4) provide that a payer's decision on a request for preauthorization or reconsideration may be provided to the injured worker's authorized representative.
- Amends R20-5-1309 (“Provider Decision on Request for Preauthorization”) to require that a payer who receives a deficient request for preauthorization – either because it is incomplete or not submitted using the Medical Treatment Preauthorization



Form – must, within seven business days of receiving and identifying the deficient request, either: (1) act on the deficient request by using the Medical Treatment Preauthorization Form; or (2) notify the provider making the request that a request for preauthorization must be submitted on the Medical Treatment Preauthorization Form.

- Various non-substantive amendments.

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

**Modifying the Applicability of the Official Disability Guidelines**

The subject rulemaking is merely intended to update Article 13 to reflect the formal action taken by the Commission on December 21, 2017, pursuant to A.A.C. R20-5-1301(C). Consequently, the Commission has not reviewed and is not relying upon any study in its evaluation of or justification for the subject rulemaking as it related to modifying the applicability to the *Official Disability Guidelines*.

As concerns the Commission's December 21, 2017 action, the Commission considered various study materials prior to completing the regulatory process for modifying the applicability of the *Official Disability Guidelines*. The study materials considered by the Commission during the administrative process are available at <https://www.azica.gov/official-disability-guidelines-study-materials-and-public-comments>. The study materials are also available for inspection or reproduction at the Industrial Commission of Arizona, Medical Resource Office, 800 West Washington Street, Phoenix, Arizona 85007.

**Streamlining the Treatment Guidelines' Authorization Process**

The Commission has not reviewed and is not relying upon any study in its evaluation of or justification for the subject rulemaking relating to streamlining the Treatment Guidelines' authorization process.

**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:**

**Modifying the Applicability of the Official Disability Guidelines**

The amendments related to modification of the applicability of the *Official Disability Guidelines* are non-substantive, as the rulemaking is merely intended to update Article 13 to reflect the formal action previously taken by the Commission pursuant to A.A.C. R20-5-1301(C). Therefore, the subject rulemaking related to modification of the applicability of the *Official Disability Guidelines* creates no economic, small business, or consumer impact beyond that already created by Article 13 and the Commission's formal action taken on December 21, 2017.

**Streamlining the Treatment Guidelines' Authorization Process**

The Commission anticipates that the amendments related to streamlining the authorization process contained in Article 13 will have some impact on participants in the workers' compensation system. Participants include injured employees who receive medical treatment and/or services related to an industrial injury, medical providers who treat injured workers, and payers (insurance carriers, self-insured employers, and the Commission's Special Fund) who administer workers' compensation claims. Although participants in the workers' compensation system are already subject to the Treatment Guidelines, the subject rulemaking will:

- Mandate the use of the “Medical Treatment Preauthorization Form” when a medical provider seeks preauthorization for medical treatment or services;
- Reduce the time period for a payer to respond to a request for preauthorization or reconsideration from ten business days to seven business days; and
- Require a payer who receives an incomplete request for preauthorization or a request for preauthorization that is not submitted on the Medical Treatment Preauthorization Form to, within seven business days of receiving and identifying the deficient request, either: (1) act on the deficient request by using the Medical Treatment Preauthorization Form; or (2) notify the provider making the request that a request for preauthorization must be submitted on the Medical Treatment Preauthorization Form.

The Commission anticipates that the amendments will streamline the authorization process, reduce delays in providing employees with reasonably-required medical treatment, improve the processing of workers' compensation claims, and reduce litigation time and costs.

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

All references in the amendments to “pre-authorization” or “Pre-Authorization” were changed to “preauthorization” or “Preauthorization.” These changes are non-substantive and were made for consistency and because the term “preauthorization” is defined in the Treatment Guidelines. See A.A.C. R20-5-1302.

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

One written comment was submitted by Mark A. Kendall (Associate General Counsel) on behalf of CopperPoint Insurance Companies. Mr. Kendall expressed full support for the subject rulemaking, noting that it is responsive to stakeholder concerns and the product of a comprehensive review process by the Commission. He specifically noted that the subject rulemaking: (1) is reasonable, balanced, concise, and “efficient with regard to carrying out [statutory] mandates”; (2) will “make the authorization pro-



cess easier and quicker for providers, payers, and the Commission”; (3) “should result in [a] speedier and more efficient process”; and (4) “is consistent with legislative intent.”

One oral comment was made by Gale Vogler (Director) on behalf of CopperPoint Insurance Companies. Like Mr. Kendall, Ms. Vogler expressed full support for the subject rulemaking, noting that it “will make the authorization process easier for all involved parties” and “is consistent with legislative intent.”

**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:**

Not applicable

**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 subject rulemaking does not require issuance of a regulatory permit or license.

**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. The subject rulemaking does not implicate federal law.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact on 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 rule:**

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 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE  
CHAPTER 5. THE INDUSTRIAL COMMISSION OF ARIZONA**

**ARTICLE 1. WORKERS' COMPENSATION PRACTICE AND PROCEDURE**

Section  
R20-5-106. Commission Forms

**ARTICLE 13. TREATMENT GUIDELINES**

Section  
R20-5-1301. Adoption and Applicability of the Article  
R20-5-1302. Definitions  
R20-5-1303. Provider Request for Preauthorization  
R20-5-1309. Payer Decision on Request for Preauthorization  
R20-5-1310. Payer Reconsideration on Request for Preauthorization  
R20-5-1311. Administrative Review by Commission

**ARTICLE 1. WORKERS' COMPENSATION PRACTICE AND PROCEDURE**

**R20-5-106. Commission Forms**

- A. The following forms shall be used when applicable:
  - 1. Employer's report of industrial injury (form 101) shall contain:
    - a. Employee, employer, and carrier identification;
    - b. Description of employment;
    - c. Description of accident and injury;
    - d. Description of medical treatment received by employee;
    - e. Employee's wage data;
    - f. Date, signature, and title of employer or the employer's representative; and
    - g. Statement doubting the validity of the claim, if the employer doubts the validity of the claim.
  - 2. The physician's portion of the worker's and physician's report of injury (form 102) shall contain:
    - a. Name and address of physician;
    - b. Information regarding preexisting conditions;
    - c. Information regarding the industrial injury, treatment, and prognosis;
    - d. Statement authorizing the attachment of a medical report that contains the information required in form 102; and
    - e. Physician's signature and date.
  - 3. Notice of supportive medical benefits (form 103) shall contain:
    - a. Employee, employer, insurance carrier, and claim identification;
    - b. Description of authorized medical benefits;



- c. Date the notice is mailed;
  - d. Name and telephone number of the individual issuing the notice; and
  - e. Statement regarding reopening and appeal rights including filing requirements.
4. Notice of claim status (form 104) shall contain:
    - a. Employee, employer, insurance carrier, and claim identification;
    - b. Status of the claim;
    - c. Date the notice is mailed;
    - d. Name and telephone number of the individual issuing the notice; and
    - e. Statement of a party's hearing and appeal rights including filing requirements.
  5. Notice of suspension of benefits (form 105) shall contain:
    - a. Employee, employer, insurance carrier, and claim identification;
    - b. Effective date of the suspension;
    - c. Reasons for the suspension;
    - d. Date the notice is mailed;
    - e. Name and telephone number of the individual issuing the notice; and
    - f. Statement of a party's hearing and appeal rights including filing requirements.
  6. Notice of permanent disability or death benefits (form 106) shall contain:
    - a. Employee, employer, insurance carrier, and claim identification;
    - b. Applicable statutory authority under which compensation is paid;
    - c. Disability and compensation information;
    - d. Date the notice is mailed;
    - e. Name and telephone number of the individual issuing the notice; and
    - f. Statement regarding hearing and appeal rights including filing requirements.
  7. Notice of permanent disability and request for determination of benefits (form 107) shall contain:
    - a. Employee, employer, insurance carrier, and claim identification;
    - b. Type of disability;
    - c. Applicable statutory authority for designated disability;
    - d. Designation of dependents where death is involved;
    - e. Designation of advanced payments and amount of the advance;
    - f. Date the notice is mailed; and
    - g. Name and telephone number of the individual issuing the notice.
  8. Carrier's recommended average monthly wage calculation (form 108) shall contain:
    - a. Employee, employer, insurance carrier, and claim identification;
    - b. Employment and wage history;
    - c. Designation of dependents; and
    - d. Carrier's calculations for the recommended average monthly wage and the basis for the calculation.
  9. Notice of permanent compensation payment plan (form 111) shall contain:
    - a. Employee, employer, and carrier identification;
    - b. Amount of permanent compensation and description of payment plan;
    - c. Name of the responsible entity contracted by the carrier to administer the payment plan;
    - d. Statement that the carrier remains the responsible party for payment;
    - e. Statement regarding supportive care and reopening rights;
    - f. Date the notice is mailed; and
    - g. Name and telephone number of the individual issuing the notice.
  10. Report of insurance coverage (form 0006) shall contain:
    - a. Name and address of the carrier;
    - b. Legal name of entity that the carrier insures;
    - c. All other insured names or subsidiary entities under which the carrier's insured does business in Arizona;
    - d. Address of all insured entities with insurance policy information for each address; and
    - e. Employer Identification Number (EIN), Taxpayer Identification Number (TIN), or Federal Identification Number (FIN) assigned to each insured person or entity.
  11. Report of significant work exposure to bodily fluids or other infectious material shall contain:
    - a. The requirements set forth in A.R.S. §§ 23-1043.02(B), 23-1043.03(B), and 23-1043.04(B);
    - b. Employee identification,
    - c. Employer identification,
    - d. Source of exposure person identification (if known),
    - e. Details of the exposure including:
      - i. Date of exposure,
      - ii. Time of exposure,
      - iii. Place of exposure,
      - iv. How exposure occurred,
      - v. Type of bodily fluid or fluids,
      - vi. Source of bodily fluid or fluids,
      - vii. Part or parts of body exposed to bodily fluid or fluids,
      - viii. Presence of break or rupture in skin or mucous membrane, and
      - ix. Witnesses (if known), and



- f. Dated signature of employee or the employee's authorized representative.
- 12. The medical treatment preauthorization form (MRO-1.1) shall contain five sections, as follows:
  - a. Section I (Provider Request for Preauthorization) shall contain:
    - i. Injured employee identification, including name, date of injury, date of birth, and payer claim number (if known);
    - ii. Provider identification, including name, phone number, provider medical specialty, preferred method of contact, and contact information;
    - iii. Payer identification, including name and contact information (i.e., mailing address, fax number, or e-mail address);
    - iv. Information regarding requested medical treatment and/or services, including:
      - (1) Applicable diagnosis and/or ICD codes;
      - (2) A detailed statement of the treatment or services requested;
      - (3) Applicable Current Procedural Terminology (CPT) codes and/or National Drug Codes (NDC);
      - (4) Type of request (i.e., routine or urgent); and
      - (5) An indication as to whether the provider has attached documentation to support the medical necessity and appropriateness of the requested treatment and/or services; and
    - v. Dated signature or electronic signature of provider or provider's authorized representative.
  - b. Section II (Payer Decision on Request for Preauthorization) shall contain:
    - i. Payer's preferred method of contact and contact information;
    - ii. Date request for preauthorization is received;
    - iii. The Commission claim number;
    - iv. The payer's decision (i.e., approved, partial denial, denied, request for preauthorization incomplete, or IME requested);
    - v. An indication as to whether the payer has attached a statement of what treatment and/or services have been authorized, including, if applicable, a partial authorization, and, if the request for preauthorization is denied, in whole or in part, a statement of explanation that includes the medical reason supporting the payer's decision; and
    - vi. Dated signature or electronic signature of payer or payer's authorized representative.
  - c. Section III (Provider or Employee Request for Reconsideration of Payer Decision) shall contain:
    - i. An indication as to whether the provider or injured employee has attached a statement of the specific reasons and justifications to support the request for reconsideration;
    - ii. An indication as to whether the provider or injured employee has attached documentation to support the medical necessity and appropriateness of the requested treatment and/or services, if not previously provided; and
    - iii. Dated signature or electronic signature of provider, provider's authorized representative, injured employee, or injured employee's authorized representative.
  - d. Section IV (Payer Decision on Request for Reconsideration) shall contain:
    - i. Date request for reconsideration received;
    - ii. The payer's decision (e.g., approved, partial denial, denied, or IME requested);
    - iii. An indication as to whether the payer has attached a statement of what has been authorized, including if applicable, a partial authorization, and, if the request for preauthorization is denied, in whole or in part, a statement of explanation that includes the medical reason supporting the payer's decision; and
    - iv. Dated signature or electronic signature of payer or payer's authorized representative.
  - e. Section V (Provider or Employee Request for Administrative Peer Review) shall contain:
    - i. An indication of the basis for the request for administrative peer review (e.g., payer non-response, denial (in whole or in part) of requested treatment or services, the payer's decision on the request for preauthorization denied treatment or services that are subject to R20-5-1304(B));
    - ii. An indication as to whether the provider or injured employee has attached copies of relevant medical records and, if applicable, documentation related to the payer's non-response;
    - iii. An indication as to whether the provider or injured employee has attached all documentation and statements previously attached to Sections I-IV; and
    - iv. Dated signature or electronic signature of provider, provider's authorized representative, injured employee, or injured employee's authorized representative.

- B. The following forms may be used:
  1. The workers' portion of the worker's and physician's report of injury (form 102) requests:
    - a. Employee, employer, insurance carrier, and physician identification;
    - b. Description of the accident, including date of injury; and
    - c. Date and signature of the employee or the employee's authorized representative.
  2. Worker's report of injury (form 407) requests:
    - a. Employee and employer identification,
    - b. Job title,
    - c. Employment description,
    - d. Employee's wage data,
    - e. Date of injury,
    - f. Accident and injury descriptions,
    - g. Medical treatment information,
    - h. Information concerning prior injuries of the employee,
    - i. Disability income, and
    - j. Date and signature of the employee or the employee's authorized representative.
  3. Worker's annual report of income (form 110-A) requests:



- a. Employee, employer, insurance carrier, and claim identification;
  - b. Employment and wage history for the preceding 12 months;
  - c. Date and signature of the employee or the employee's authorized representative attesting to the truthfulness of the employment and wage information; and
  - d. Statement that failure to submit an annual report of income may result in a suspension of benefits by the carrier or self-insured employer.
4. Notice of intent to suspend (form 110-B) requests:
    - a. Employee, employer, insurance carrier, and claim identification;
    - b. Employment and wage history for the preceding 12 months;
    - c. Date and signature of the employee or the employee's authorized representative attesting to the truthfulness of the employment and wage information;
    - d. Statement that failure to submit an annual report within 30 days of the date of the notice shall result in a suspension of benefits by the carrier or self-insured employer.
  5. Request for hearing requests:
    - a. Names of the employee, employer, and insurance carrier;
    - b. Claim identification;
    - c. Identification of the award, notice, order, or determination protested and reason(s) for the protest;
    - d. Estimated length of time for hearing and city or town in which hearing is requested;
    - e. Name and address of any witness for whom a subpoena is requested; and
    - f. Date and signature of party or the party's authorized representative.
  6. Petition to reopen requests:
    - a. Names of the employee, employer, and insurance carrier;
    - b. Claim identification;
    - c. Identification or description of the new, additional, or previously undiscovered temporary or permanent disability or medical condition justifying the reopening of the claim; and
    - d. Employee's medical and employment history.
  7. Petition for rearrangement or readjustment of compensation requests:
    - a. Names of the employee, employer, and insurance carrier;
    - b. Claim identification;
    - c. Income and employment history;
    - d. Medical history; and
    - e. Statement of the basis for the increase or decrease in earning capacity.
  8. Claim for dependent's benefits-fatality form requests:
    - a. Identification of dependent filing claim;
    - b. Identification of deceased;
    - c. Date of death;
    - d. Date of injury, if different than date of death;
    - e. Name and address of employer at time of deceased's death;
    - f. Statement of cause of death;
    - g. Names and addresses of health care providers rendering treatment to deceased in two years before death;
    - h. Conditions treated by health care providers in the two years before deceased's death;
    - i. If claim is for spousal benefits, the form requests:
      - i. Name, address, and date of birth of spouse;
      - ii. Copy of marriage certificate;
      - iii. Date and place of marriage to deceased;
      - iv. History of prior marriages of deceased and deceased's spouse, including copies of divorce decrees; and
      - v. Statement of living arrangements at time of deceased's death, including reason for living apart at time of death, if applicable;
    - j. If claim is for a dependent child, the form requests:
      - i. Name, date of birth, and address of child at time of deceased's death;
      - ii. List of children in care and custody of current spouse; and
      - iii. Statement of whether unborn child is expected and date expected;
    - k. If claim is for dependent other than a child, the form requests:
      - i. Name and address of other dependent,
      - ii. Relationship of other dependent to deceased, and
      - iii. Statement of the nature and extent of dependency; and
    - l. Date, telephone number, and signature of dependent or authorized representative of dependent.
  9. Request to leave the state form requests:
    - a. Employee, insurance carrier, and claim identification;
    - b. Reason for requesting to leave Arizona;
    - c. Dates leaving and returning to Arizona;
    - d. Out-of-state address;
    - e. Name and telephone number of attending physician; and
    - f. Date and signature of the employee or the employee's authorized representative.
  10. Request to change doctors form requests:
    - a. Employee, insurance carrier, and claim identification;



- b. Reason for requesting change of doctor;
- c. Name and phone number of claimant's current doctor;
- d. Name and phone number of doctor claimant requests to change to; and
- e. Date and signature of the employee or the employee's authorized representative.
- 11. Complaint of bad faith and unfair claim processing practices requests:
  - a. Employee, employer, and insurance carrier identification;
  - b. Description of the alleged bad faith or unfair claim processing practices;
  - c. Date of the complaint; and
  - d. Name, address, and telephone number of the person signing the complaint.
- 12. Certification of employer's drug and alcohol testing policy requests:
  - a. Employer's certification as described under A.R.S. § 23-1021(F),
  - b. Name and federal identification number of the employer, and
  - c. Name of all subsidiaries and locations of the employer.
- C. Optional use of a form described in subsection (B) does not affect any requirement under the Act or this Article.
- D. Forms or format for the forms described in this Section are available from the Commission.
- E. Forms prescribed under this Section shall not be changed, amended, or otherwise altered without the prior written approval of the Commission.

**ARTICLE 13. TREATMENT GUIDELINES**

**R20-5-1301. Adoption and Applicability of the Article**

- A. The Industrial Commission of Arizona (Commission) has adopted the Work Loss Data Institute's *Official Disability Guidelines – Treatment in Workers Compensation* (ODG) as the standard reference for evidence-based medicine used in treating injured workers within the context of Arizona's workers' compensation system. By adopting and referencing the most recent edition (at the time of treatment), and continuously updated Official Disability Guidelines, the Commission can ensure the latest available medical evidence is used in making medical treatment decisions for injured workers.
- B. Until further action of the Commission, the guidelines shall apply to ~~the management of chronic pain and the use of opioids for all stages of pain management. For purposes of this process, chronic pain shall be defined by the guidelines~~ all body parts and conditions.
- C. The Commission may modify or change the applicability of the guidelines as described in subsection (B) if the Commission determines that modification or changing the applicability of the guidelines will: 1) improve medical treatment for injured workers, 2) make treatment and claims processing more efficient and cost effective, and 3) if the Commission's modification expands the applicability of the guidelines, the guidelines adequately cover the relevant body parts or conditions. Before taking action to modify or change the applicability of the guidelines, the Commission shall provide an opportunity for public comment and hold a public hearing. A decision of the Commission under this subsection shall be made by a majority vote of a quorum of Commission members present at a public meeting.
- D. Action taken by the Commission to modify or change the applicability of the guidelines under subsection (C) shall be published in the minutes of the Commission meeting when such action was taken. The minutes of this action shall be published on the Commission's website and shall be available from the Commission upon request.
- E. The guidelines shall apply prospectively. Recommendations provided in the guidelines related to the management of chronic pain and the use of opioids for all stages of pain management shall apply to medical treatment or services occurring on or after October 1, 2016 ~~the effective date of this Article. For purposes of this process, chronic pain shall be defined by the guidelines. Recommendations provided in the guidelines related to all other body parts and conditions shall apply to medical treatment or services occurring on or after October 1, 2018.~~
- F. This Article applies to all claims filed with the Commission.
- G. This Article only applies to medical treatment and services for body parts and conditions that have been accepted as compensable.
- H. The guidelines are to be used as a tool to support clinical decision making and quality health care delivery to injured employees. The guidelines set forth care that is generally considered reasonable and are presumed correct if the guidelines provide recommendations related to the requested treatment or service. This is a rebuttable presumption and reasonable medical care may include deviations from the guidelines. To support a request to deviate from the guidelines, the provider must produce documentation and justification that demonstrates by a preponderance of credible medical evidence a medical basis for departing from the guidelines. Credible medical evidence may include clinical expertise and judgment.
- I. The Commission shall provide administrative review and oversight of this Article.

**R20-5-1302. Definitions**

In this Article ~~and R20-5-106(A)(12)~~, unless the context otherwise requires:

- “Act” means the Arizona Workers' Compensation Act, A.R.S. Title 23, ~~Ch. Chapter 6, Articles 1 through 11.~~
- “Active Practice” means performing patient care for a minimum of eight hours per week in one of the five preceding years.
- “Administrative Law Judge” or “ALJ” means a hearing officer appointed under A.R.S. § 23-108.02.
- “Administrative Review” means a process that includes a peer review for preauthorization of a request for medical treatment or services ~~conducted pursuant to R20-5-1311 that has been denied or partially denied by a payer.~~ The administrative review process will be managed by the Medical Resource Office (MRO) at the Industrial Commission of Arizona.
- “American Board of Medical Specialties” means the organization that develops a uniform system for specialty boards to administer examinations for certification of physicians within specific medicine specialties.
- “American Osteopathic Association” means the organization that develops a uniform system for specialty boards to administer examinations for certification of osteopathic physicians within specific osteopathic medicine specialties.



“Applicability” means the body parts and medical conditions that are covered under this Article and authorized by the Commission under R20-5-1301(B) and (C).

“Claim” means the workers' compensation claim filed by the injured employee under the Act.

“Contractor” means an independent peer review organization accredited by URAC.

“Fast Track ALJ Dispute Resolution Program” or “fast track process” means the voluntary dispute resolution process set forth in R20-5-1312(B).

“International Classification of Diseases Code” or “ICD Code” means a set of medical diagnostic codes that creates a universal language for reporting diseases and injury.

“International Classification of Diseases” or “ICD” means an official list of categories of diseases, physical and mental, that is issued and maintained by the World Health Organization.

“IME” means an independent medical examination scheduled under R20-5-114.

“Injured Employee” means a person defined in A.R.S. § 23-901 whose claim has been accepted for workers' compensation benefits.

“Medical File Review Opinions” means a formal examination of patient data and medical records for the purpose of determining the need for medical treatment, services or both.

“Payer” means an insurance carrier defined under A.R.S. § 23-901, a self-insured employer defined in R20-5-102, a third-party administrator, and the Special Fund of the Industrial Commission of Arizona.

“Peer Review” means an independent medical review conducted by an individual meeting the requirements of R20-5-1311(I).

“Preauthorization” means ~~the written~~ request prescribed by R20-5-1303 from a provider to a payer requesting approval to provide medical treatment or services to an injured employee.

“Provider” means a physician as defined in R20-5-102.

“Reconsideration” means a written request to the payer or identified review organization by an injured employee or medical provider to reconsider a previous payer decision to deny medical treatment or services and that identifies the specific justification to support the request.

“Third-Party Administrator” ~~or “TPA”~~ means an organization that processes insurance or employee benefit claims for a separate entity.

“Treatment Guidelines” or “guidelines” means medical treatment guidelines that are used as a tool to support clinical decision making and quality health care delivery to injured employees.

“URAC” refers to URAC, a non-profit organization formerly known as the Utilization Review Accreditation Commission.

### **R20-5-1303. Provider Request for Preauthorization**

- A. No preauthorization is required under the Act to ensure payment for reasonably required medical treatment or services. While preauthorization is not required under the Act, a provider may seek preauthorization as provided in this subsection.
- B. A provider shall submit a request for preauthorization in writing using Section I (Provider Request for Preauthorization) of the Medical Treatment Preauthorization Form approved by the Commission under R20-5-106(A)(12). A provider shall attach documentation to a request for preauthorization that supports the medical necessity and appropriateness of the treatment or services requested, such as office notes and diagnostic reports, which shall include the following information:
1. ~~Patient information (including date of injury, date of birth, and payer claim number);~~
  2. ~~Diagnosis and ICD code;~~
  3. ~~Date of request;~~
  4. ~~Type of request—Initial, Routine, Urgent, or Life Threatening;~~
  5. ~~A statement of the treatment or services requested. Where appropriate, information about quantity, strength, duration and frequency of the treatment or services should be included. Use of the applicable codes should also be included and will facilitate the process; and~~
  6. ~~Documentation, if not already provided, that supports the medical necessity and appropriateness of the treatment or services requested, such as office notes and diagnostic reports.~~
- C. A provider may submit the request for preauthorization by mail, electronically or by fax.

### **R20-5-1309. Payer Decision on Request for Preauthorization**

- A. Except as provided in ~~subsection (C) or (D)~~, a payer shall communicate to the provider its decision on a request for preauthorization no later than ~~407~~ business days after the request is received. ~~This~~ The decision shall be issued in writing using Section II (Payer Decision on Request for Preauthorization) of the Medical Treatment Preauthorization Form approved by the Commission under R20-5-106(A)(12). A payer shall attach to the decision a statement of what has been authorized, including, if applicable, a partial authorization, and, if the request for preauthorization is denied, in whole or in part, a statement of explanation that includes the medical reason supporting the payer's decision ~~comply with the requirements set forth in subsection (H)~~. For purposes of this Section, the ~~407~~ business days begin to run the day after the payer receives the request.
- B. If a payer fails to communicate to a provider its decision on request for preauthorization within ~~407~~ business days, then the payer's failure to take action is deemed a “no response” and the provider or injured employee may submit a request for administrative review directly to the Commission as provided in R20-5-1311.
- C. If a payer receives a request for preauthorization not submitted on Section I (Provider Request for Preauthorization) of the Medical Treatment Preauthorization Form approved by the Commission under R20-5-106(A)(12) or an incomplete request for preauthoriza-



tion using Section I (Provider Request for Preauthorization) of the Medical Treatment Preauthorization Form approved by the Commission under R20-5-106(A)(12) that fails to meet the requirements of R20-5-1303, the payer may, in its discretion:

1. No later than 7 business days after the request is received and identified, act on the incomplete request for preauthorization pursuant to subsection (A); or
2. No later than 407 business days after the request is received and identified, notify the provider in writing that the request for preauthorization is incomplete or, if applicable, that a request for preauthorization must be submitted on Section I (Provider Request for Preauthorization) of the Medical Treatment Preauthorization Form approved by the Commission under R20-5-106(A)(12).

D. If, no later than 407 business days after a request for preauthorization has been received, a payer provides written notice to the provider that an IME has been requested under R20-5-114 using Section II (Payer Decision on Request for Preauthorization) of the Medical Treatment Preauthorization Form approved by the Commission under R20-5-106(A)(12), then the payer's decision on a request for preauthorization shall be issued no later than 407 business days after the final IME report has been received by the payer. The payer shall provide a copy of the final IME report to the provider upon receipt of the IME report.

E. Unless the payer decision was supported by an IME or otherwise falls within subsection R20-5-1304(B), an injured employee or provider may seek reconsideration of a payer decision by submitting a written request to the payer (or review organization identified by the payer) using Section III (Provider or Employee Request for Reconsideration) of the Medical Treatment Preauthorization Form approved by the Commission under R20-5-106(A)(12). A provider shall attach to a request for reconsideration a statement of that states the specific reasons and justifications to support the request. If not previously provided, the injured employee or provider shall include attach supporting medical documentation with their the written request for reconsideration.

F. An injured employee may seek review of a payer decision that is supported by an IME by requesting an investigation under A.R.S. § 23-1061(J).

G. Unless the decision was supported by an IME, an injured employee or provider may seek review of a payer decision issued under R20-5-1304(B) by requesting administrative review by the Commission as provided in R20-5-1311.

H. A payer shall include the following information in its written decision to approve or deny, in whole or in part, the request for preauthorization to provide treatment or services:

1. The date on which the request for preauthorization was received;
2. Patient information, including date of injury, date of birth, payer claim number and Commission claim number;
3. The date on which an IME was completed, if applicable;
4. A statement of what has been authorized, including if applicable, a partial authorization;
5. A statement of explanation if the request for preauthorization is denied, in whole or in part, which should include the medical reason supporting the payer's decision;
6. A statement of the process under which a provider or injured employee may request reconsideration or review of the payer's denial, in whole or in part, of a request for preauthorization, which shall include the following information;

a. For a decision that is issued without obtaining an IME that is not subject to R20-5-1304(B):  
"If you wish to request reconsideration of the decision regarding your request for preauthorization to provide treatment or services, you must send a written request for reconsideration to:

Name of Payer or Review Organization Identified by Payer  
Commission Address  
Phone  
Fax  
E-mail

You must include the specific reason and justification to support your request. Please include additional supporting medical documentation if not previously provided."

b. For a decision that is supported by an IME:  
"If you wish review of the decision regarding your request for preauthorization to provide treatment or services, then the injured employee is required to file a request for investigation under A.R.S. § 23-1061(J)."

e. For a decision that is issued without obtaining an IME that is subject to R20-5-1304(B):  
"If you disagree with this decision and wish to request review by the Industrial Commission of Arizona, then you may submit a request for administrative review under R20-5-1311 to:

Industrial Commission of Arizona  
Attn: Medical Resource Office  
Commission Address  
Commission Telephone Number

The provider shall file this request promptly and include the following information: patient information, including name, address, payer claim number, Commission claim number, and date of injury; diagnosis or ICD code; employer, insurance carrier or TPA information; provider information; information pertaining to request for treatment, including the justification for treatment; applicable treatment guideline or guidelines; denial of treatment by payer; copies of relevant medical information or records; and whether the request for medical treatment or services involves a request for urgent care or a life-threatening condition."

H. A payer shall provide a copy of its written decision to deny treatment or services to the injured employee or, if represented, to the injured employee's authorized representative.

**R20-5-1310. Payer Reconsideration on Request for Preauthorization**

A. Except as provided in subsection (C), a payer shall communicate to the provider its decision on a request for reconsideration no later than 407 business days after the request is received. This decision shall be issued in writing using Section IV (Payer Decision on Request for Reconsideration) of the Medical Treatment Preauthorization Form approved by the Commission under R20-5-106(A)(12). A payer shall attach to the decision a statement of what has been authorized, including, if applicable, a partial authorization, and, if the request for preauthorization is denied, in whole or in part, a statement of explanation that includes the medical reason



- supporting the payer's decision comply with the requirements set forth in subsection (E). For purposes of this subsection, the 407 business days begin to run the day after the payer receives the request for reconsideration.
- B.** If a payer fails to respond to a request for reconsideration within 407 business days, the provider or injured employee may submit a request for administrative review directly to the Commission as provided in R20-5-1311.
- C.** If, no later than 407 business days after a request for reconsideration has been received, a payer provides written notice to the provider that an IME has been requested under R20-5-114 using Section IV (Payer Decision on Request for Reconsideration) of the Medical Treatment Preauthorization Form approved by the Commission under R20-5-106(A)(12), then the payer's decision on a request for reconsideration shall be issued no later than 407 business days after the final IME report has been received by the payer. The payer shall provide a copy of the final IME report to the provider upon receipt of the report.
- D.** Commission Review of Payer Reconsideration Decision:
1. An injured employee or provider may seek review of a payer reconsideration decision by requesting an administrative review by the Commission as provided in R20-5-1311 unless the payer decision was supported by an IME.
  2. An injured employee may seek review of a payer reconsideration decision that is supported by an IME by requesting an investigation under A.R.S. § 23-1061(J).
- E.** ~~A payer shall include the following information in its written decision to approve or deny, in whole or in part, a request for reconsideration of a denial of preauthorization:~~
1. ~~The date on which the request for reconsideration was received;~~
  2. ~~Patient information, including date of injury, date of birth, payer claim number and Commission claim number;~~
  3. ~~The date on which an IME was completed, if applicable;~~
  4. ~~A statement of what has been authorized including, if applicable, a partial authorization;~~
  5. ~~A statement of explanation if the request for treatment is denied, in whole or in part; and~~
  6. ~~A statement of the process under which a provider or injured employee may request Commission review of the payer's denial, in whole or in part, of a request for preauthorization, which shall include the following information:~~
    - a. ~~For a reconsideration decision that is issued without obtaining an IME:~~  
 "If you disagree with this reconsideration decision and wish to request review by the Commission, then you may submit a request for administrative review under R20-5-1311 to:  
 Industrial Commission of Arizona  
 Attn: Medical Resource Office  
 Commission Address  
 Commission Telephone Number.  
 The provider shall file this request promptly and include the following information: patient information, including name, address, payer claim number, Commission claim number, and date of injury; diagnosis or ICD code; employer, insurance carrier or TPA information; provider information; information pertaining to request for treatment, including the justification for treatment; applicable treatment guideline and denial of treatment by payer; copies of relevant medical information or records; copies of relevant documentation related to the payer reconsideration decision; and whether the request for medical treatment or services involves a request for urgent care or a life-threatening condition."
    - b. ~~For reconsideration of a decision that is supported by an IME:~~  
 "If you disagree with this reconsideration decision and wish review by the Commission, then the injured employee is required to file a request for investigation under A.R.S. § 23-1061(J)."
- F.** ~~A payer shall provide a copy of its written reconsideration decision to deny treatment or services to the injured employee or, if represented, to the injured employee's authorized representative.~~
- R20-5-1311. Administrative Review by Commission**
- A.** ~~Until Absent~~ further action of the Commission under R20-5-1301(C), administrative review under this Article is ~~limited to~~ available for requests for medical treatment or services related to ~~the management of chronic pain and the use of opioids for all stages of pain management~~ all body parts and conditions.
- B.** A request for administrative review shall be in writing using Section V (Provider or Employee Request for Administrative Peer Review) of the Medical Treatment Preauthorization Form approved by the Commission under R20-5-106(A)(12). A request for administrative review must attach copies of relevant medical information or records and copies of all documentation related to the payer's decision or non-response. A request for administrative review must be ~~and~~ submitted to the Commission by mail, electronically or by fax. ~~The request shall include the following information:~~
1. ~~Identifying information of the injured employee and claim, including the injured employee's name, address, commission claim number, and date of injury;~~
  2. ~~Diagnosis and ICD code;~~
  3. ~~Identifying information of the employer, insurance carrier or TPA;~~
  4. ~~Identifying information of the provider;~~
  5. ~~Information pertaining to request for treatment, such as the justification for treatment, applicable treatment guideline and, if applicable, the payer's denial of treatment;~~
  6. ~~Copies of relevant medical information or records;~~
  7. ~~Copies of documentation related to the payer's decision or non response; and~~
  8. ~~Whether the request for medical treatment or services involves a request for urgent care or a life threatening condition.~~
- C.** Upon receipt of a request for administrative review, the Commission shall determine whether the administrative review is available under this Article.
1. If administrative review is not available, then no later than three business days after receiving a request for administrative review, the Commission shall send notice to the injured employee and payer that administrative review is not available.



2. If administrative review is available, then no later than three business days after receiving the request, the Commission shall send notice to the payer that a request for administrative review has been received and provide information on how to participate in the process.
- D. The administrative review conducted under this Section shall apply the guidelines as described in this Article and include a peer review performed by an individual meeting the requirements of subsection (I). The peer review shall consist of a records review and, when possible as described in subsection (I)(5), a conversation between the provider and individual conducting the peer review.
- E. The Commission may enter into an agreement with one or more contractors, who shall be URAC accredited, to provide the review described in subsection (D).
- F. The payer shall pay for the costs of the peer review conducted by the contractor.
- G. To assist in its review, the Commission or its contractor may request or receive additional information and documentation from the provider, injured employee or payer, who shall cooperate and provide the Commission or its contractor with any necessary medical information, including information pertaining to the payer's decision.
- H. Before the Commission or its contractor issues a determination denying the request for treatment or services, a good faith effort shall be made to conduct a peer review with the provider requesting authorization to perform the treatment or services.
- I. The individual conducting the peer review shall:
  1. Hold an active, unrestricted license or certification to practice medicine or a health profession and be involved in the active practice of medicine or a health profession during the five preceding years. For purposes of this subsection, "active practice" means performing patient care for a minimum of eight hours per week in one of the five preceding years;
  2. Be licensed in Arizona, unless the Commission or its contractor is unable to find such an individual, in which case the peer review may be conducted by an individual who is licensed in another state of the United States and who meets the other requirements of this subsection;
  3. For a review of a request from an allopathic or osteopathic physician, nurse practitioner, physician assistant, or other mid-level provider, hold a current certification from the American Board of Medical Specialties or the American Osteopathic Association in the area or areas appropriate to the condition, procedure or treatment under review;
  4. Be in the same profession and the same specialty or subspecialty as typically performs or prescribes the medical procedure or treatment requested; and
  5. Make a good faith effort to contact the provider requesting the preauthorization. This good faith effort shall include making telephone contact during the provider's normal business hours and offering to schedule the peer review at a time convenient for the provider.
- J. A provider may bill the payer for time spent participating in a peer review under this Section.
- K. The Commission or its contractor shall issue a written determination of its administrative review that contains the name and title of the person that performed the administrative review, and includes the following information:
  1. Whether the request for treatment or services is authorized or denied, in whole or in part;
  2. The information reviewed;
  3. The principle reason for the decision; and
  4. The clinical basis and rationale for the decision.
- L. An interested party dissatisfied with the administrative review determination may request that the dispute be referred to the Commission's Administrative Law Judge Division for hearing. This request for hearing shall:
  1. Be in writing;
  2. Filed no later than 10 business days after the administrative review determination is issued; and
  3. State whether the party requests to participate in the Fast Track ALJ Dispute Resolution Program by stipulation, or declines to participate in the Fast Track ALJ Dispute Resolution Program.
- M. If a timely request for hearing is filed, the administrative review determination is deemed null and void and shall serve no evidentiary purpose.
- N. The information provided by the parties under this Section and the determination issued by the Commission shall become a part of the Commission claims file for the injured employee.



**NOTICES OF EMERGENCY RULEMAKING**

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

The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the emergency rules should be addressed to the agency proposing them.

Refer to Item #5 to contact the person charged with the rulemaking.

**NOTICE OF EMERGENCY RULEMAKING  
TITLE 6. ECONOMIC SECURITY  
CHAPTER 14. DEPARTMENT OF ECONOMIC SECURITY  
FOOD STAMPS PROGRAM**

[R18-134]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
Article 3	New Article
R6-14-301	New Section
R6-14-302	New Section
R6-14-303	New Section
R6-14-304	New Section
R6-14-305	New Section
R6-14-306	New Section
R6-14-307	New Section
R6-14-308	New Section
Article 4	New Article
R6-14-401	New Section
R6-14-402	New Section
R6-14-403	New Section
R6-14-404	New Section
R6-14-405	New Section
R6-14-406	New Section
R6-14-407	New Section
R6-14-408	New Section
R6-14-409	New Section
R6-14-410	New Section
R6-14-411	New Section
R6-14-412	New Section
R6-14-413	New Section
R6-14-414	New Section
R6-14-415	New Section
R6-14-416	New Section
R6-14-417	New Section
Article 5	New Article
R6-14-501	New Section
R6-14-502	New Section
R6-14-503	New Section
R6-14-504	New Section
R6-14-505	New Section
R6-14-506	New Section
R6-14-507	New Section
<b><u>2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):</u></b>	
Authorizing statute: A.R.S. §§ 41-1954(A)(3), 46-134(1) and (10)	



Implementing statute: A.R.S. §§ 41-1954(A)(1)(c) and (A)(8) and 46-136(B) and (C); 7 U.S.C. § 2013

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

July 6, 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):**

The rules shall become effective immediately upon filing with the Secretary of State under A.R.S. § 41-1032(A)(2). The Code of Federal Regulations (CFR) requires the Arizona Department of Economic Security (Department) to implement procedures for claims against households (7 CFR 273.18), provide fair hearings to any household aggrieved by a Department action (7 CFR 273.15), and establish a system for conducting Intentional Program Violation disqualifications (7 CFR 273.16). The effective immediate date of the rule will permit the Department to comply with federal law and regulation.

**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 emergency rulemaking notices published in the Register as specified in R1-1-409(A) that pertain to the record of this notice of emergency rulemaking:**

None

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

Name: Rodney K. Huenemann  
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) 542-6159  
Fax: (602) 542- 6000  
E-mail: rhuenemann@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 Department administers the Nutrition Assistance Program (Program), formerly called Food Stamps. The Program is authorized by the federal Supplemental Nutrition Assistance Program (SNAP) under the Food Stamp Act of 1977 (7 U.S.C. § 2011 et seq.) and the Code of Federal Regulations (7 CFR 271 through 7 CFR 283). This rulemaking will amend Chapter 14, Food Stamps Program, of the Arizona Administrative Code and provide rules that are consistent with federal law and regulation. Further, this rulemaking will add rules to conform to current practice and terminology, and to make rules that are clear, concise and understandable.

Article Three establishes procedures for the Department to identify and collect overpayments from households. The rules establish categories of claims and criteria for identifying a claim's date of discovery. The Department may determine the cost effectiveness of pursuing or terminating the collection of an overpayment and provide the household a compromise agreement to settle a claim. The rules provide for acceptable payment and collection methods.

Article Four provides for an appeal and fair hearing to any household wishing to contest an adverse Department action. The household must file an appeal request within 90 days of receiving a notice of the adverse action. The Department shall stay any adverse action pending an appeal decision. The fair hearing procedure outlines the hearing schedule, duties of the hearing officer, and parties' rights. The hearing officer must issue a decision within 60 days after the appeal request is filed. The household can appeal the hearing officer's decision.

Article Five defines an Intentional Program Violation and establishes a procedure for disqualifying a household from further Program benefits. A household may waive the right to an administrative disqualification hearing. The administrative disqualification procedures outline the hearing schedule, hearing officer's responsibilities, and the parties' rights. Various sanctions may be imposed for any program violation found. A household may appeal the determination of a program violation. The Department will honor out-of-state sanctions and impose Program penalties in this state.

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

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:**

Not applicable under A.R.S. § 41-1055(D)(1).



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

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:**

This rule does 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:**

Article Three - Claims Against Households. Federal law at 7 U.S.C. § 2022 is applicable to this rule. This federal law is implemented in the SNAP program at 7 CFR 273.18. This rule is not more stringent than federal law or regulation.

Article Four – Appeals and Fair Hearings. Federal law at 7 U.S.C. § 2020 is applicable to this rule. This federal law is implemented in the SNAP program at 7 CFR 273.15. This rule is not more stringent than federal law or regulation.

Article Five – Intentional Program Violation. Federal law at 7 U.S.C. § 2015 is applicable to this rule. This federal law is implemented in the SNAP at 7 CFR 273.16. This rule is not more stringent than federal law or regulation.

**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.

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

None

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

This rulemaking is necessary as an emergency measure under A.R.S. § 41-1026(A)(3). Federal law and regulation requires that households in the Program be afforded fair hearings to grieve an adverse Department action and that action is stayed pending final resolution of the matter. If the Department seeks to disqualify a household from further Program benefits for committing an Intentional Program Violation, the Department must follow an administrative disqualification procedure. Any attempt to establish and collect an overpayment of benefits to a household is governed by federal regulation. There are no rules regarding fair hearings, Intentional Program Violations, or overpayments and this causes confusion among Program households and the Department. The lack of rules also places the Department out of compliance with federal law and regulation.

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

July 3, 2018

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

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 14. DEPARTMENT OF ECONOMIC SECURITY  
FOOD STAMPS PROGRAM**

**ARTICLE 3. ~~EXPIRED~~ CLAIMS AGAINST HOUSEHOLDS**

Section

<u>R6-14-301.</u>	<del>Expired</del> Purpose and Definitions
<u>R6-14-302.</u>	<del>Expired</del> Calculating a Claim Amount
<u>R6-14-303.</u>	<del>Expired</del> Pre-establishment Cost Effective Determination
<u>R6-14-304.</u>	<del>Expired</del> Claim Compromise
<u>R6-14-305.</u>	<del>Expired</del> Terminating and Writing Off a Claim
<u>R6-14-306.</u>	<del>Expired</del> Acceptable Forms of Payment
<u>R6-14-307.</u>	<del>Expired</del> Collection Methods
<u>R6-14-308.</u>	<del>Expired</del> Notice of Claim

**ARTICLE 4. ~~EXPIRED~~ APPEALS AND FAIR HEARINGS**

Section

<u>R6-14-401.</u>	<del>Expired</del> Entitlement to a Fair Hearing; Appealable Action
<u>R6-14-402.</u>	<del>Expired</del> Computation of Time
<u>R6-14-403.</u>	<del>Expired</del> Request for Hearing; Form; Time Limits; Presumptions
<u>R6-14-404.</u>	<del>Expired</del> Stay of Action Pending Appeal
<u>R6-14-405.</u>	<del>Expired</del> Hearings; Location; Notice; Time
<u>R6-14-406.</u>	<del>Expired</del> Postponing the Hearing
<u>R6-14-407.</u>	<del>Expired</del> Hearing Officer: Duties and Qualifications
<u>R6-14-408.</u>	<del>Expired</del> Change of Hearing Officer; Challenges for Cause
<u>R6-14-409.</u>	<del>Expired</del> Subpoenas
<u>R6-14-410.</u>	<del>Expired</del> Parties’ Rights
<u>R6-14-411.</u>	<del>Expired</del> Withdrawal of an Appeal
<u>R6-14-412.</u>	<del>Expired</del> Failure to Appear; Default; Reopening
<u>R6-14-413.</u>	<del>Expired</del> Hearing Proceedings
<u>R6-14-414.</u>	<del>Expired</del> Hearing Decision



- R6-14-415. Effect of the Decision
- R6-14-416. Further Administrative Appeal
- R6-14-417. Appeals Board

**ARTICLE 5. EXPIRED INTENTIONAL PROGRAM VIOLATION**

Section

- R6-14-501. ~~Expired~~ Intentional Program Violation (IPV): Defined
- R6-14-502. ~~Expired~~ IPV Administrative Disqualification Hearings; Hearing Waiver
- R6-14-503. ~~Expired~~ Administrative Disqualification Hearings
- R6-14-504. ~~Expired~~ Failure to Appear; Default; Reopening
- R6-14-505. ~~Expired~~ Disqualification Sanctions; Notice
- R6-14-506. ~~Expired~~ Administrative Disqualification Hearings or Waiver of the Right to a Hearing; Appeal
- R6-14-507. ~~Expired~~ Honoring Out-of-State IPV Determinations and Sanctions

**ARTICLE 3. EXPIRED CLAIMS AGAINST HOUSEHOLDS**

**R6-14-301. ~~Expired~~ Purpose and Definitions**

- A.** The Department establishes and collects claims under 7 CFR 273.18, Claims against households. This Article clarifies the Department’s policies and procedures as permitted in federal regulation.
- B.** The definitions in section R6-14-111 and the following definitions apply to this Article:
  - 1. “Agency error” or “AE claim” means any claim for an overpayment caused by an action or failure to take action by the Department.
  - 2. “Claim” means the amount of a federal debt owed because Nutrition Assistance benefits were overpaid or benefits were trafficked.
  - 3. “Household” means one of the following individuals or groups of individuals, unless otherwise specified under 7 CFR 273.1(b):
    - a. An individual living alone;
    - b. An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or
    - c. A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.
  - 4. “Inadvertent household error” or “IHE claim” means any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the Nutrition Assistance household. This includes instances when the household received more benefits than it was entitled to receive because the household requested a continuation of benefits, pending a fair hearing decision.
  - 5. “Intentional Program Violation” or “IPV claim” means any claim for an overpayment resulting from an individual committing an IPV under 7 CFR 273.16.
  - 6. “Trafficking claim” means any claim for the value of benefits that are trafficked, under 7 CFR 273.18. Trafficking is defined under 7 CFR 271.2.

**R6-14-302. ~~Expired~~ Calculating a Claim Amount**

Under 7 CFR 273.18, the Department shall calculate an overpayment of benefits claim by:

- A.** Date of discovery. The date of discovery is determined when the Department becomes aware of the overpayment. The Department becomes aware of an overpayment when:
  - 1. For AE claims, the date that the Department received written or oral notification, or the date the Department discovered an agency error occurred that caused an overpayment to the household.
  - 2. For IHE and IPV non-trafficking claims, the date that verification used to calculate the over-issuance is obtained.
  - 3. For claims resulting from trafficking, the date of the court decision or the date the household signed a waiver of administrative disqualification hearing form or a disqualification consent agreement.
- B.** For AE claims, calculate a claim for the month of the date of discovery and for each prior month, not to exceed 36 months prior to the date of discovery.
- C.** For IHE claims, calculate a claim for the month of the date of discovery and for each prior month, not to exceed 36 months prior to the date of discovery.
- D.** For an IPV claim not related to trafficking, calculate a claim back to the month that the IPV first occurred, not to exceed 72 months prior to the date of discovery.
- E.** For a claim resulting from trafficking, calculate a claim for the value of the trafficked benefits, as determined under 7 CFR 273.18(c)(2).

**R6-14-303. ~~Expired~~ Pre-establishment Cost Effectiveness Determination**

The Department shall not establish an overpayment that is not cost effective using the threshold at 7 CFR 273.18(e)(2)(ii), unless the Department establishes and collects claims under a cost-effectiveness plan approved by F.N.S. under 7 CFR 273.18(e)(2)(ii) that establishes a different threshold.

**R6-14-304. ~~Expired~~ Claim Compromise**

For households not receiving Nutrition Assistance benefits under 7 CFR 273.18(e)(7), the Department may reduce or compromise a claim when the Department reasonably determines that a household's economic circumstances dictate that the claim will not be paid in three years. The Department shall:

- 1. Allow a household to repay a claim in equal monthly increments based on the following claim amounts:
  - a. 12 month increments when the claim is \$600.00 or less.



- b. 24 month increments when the claim is \$1,200.00 or less.
- c. 36 month increments when the claim is over \$1,200.00.
- 2. When a household reports that it is unable to afford the monthly increments established in subsection (1) and requests a compromise of the claim balance, the Department shall:
  - a. Request the household to provide an oral or written financial statement that includes the sources and amounts of all earned and unearned income and all household monthly expenses.
  - b. Establish a new claim balance based on the monthly amount the Department determines the household can reasonably afford to pay over a 36 month period based on the household's oral or written financial statement.
- 3. The Department shall consider the claim paid in full and subsequently adjust off any amount(s) remaining from the original claim after the household pays the new claim balance established in subsection (2)(b).
- 4. When the household fails to pay the new claim balance established in subsection (2)(b) within the 36 month period established in the new payment agreement, the Department shall reinstate the original amount of the claim, minus any payments received.

**R6-14-305. Expired Terminating and Writing Off a Claim**

- A. Under 7 CFR 273.18(e)(8)(ii)(F), the Department may terminate and write off a claim when no adult member of the household who is responsible for paying the claim can be located.
- B. Under 7 CFR 273.18(e)(8)(ii)(E), the Department shall not terminate and write off a claim which has been delinquent for 36 months when the claim is pending for possible payment through the Treasury Offset Program or a State Offset Program.

**R6-14-306. Expired Acceptable Forms of Payment**

The Department may accept all forms of payment methods listed in 7 CFR 273.18(f) to collect a claim.

**R6-14-307. Expired Collection Methods**

- A. Allotment reduction. The Department may use the allotment reduction in 7 CFR 273.18(g)(1) except the allotment reduction in 7 CFR 273.18(g)(1)(vi).
- B. Under 7 CFR 273.18(g)(5), the Department may allow the household to pay a claim in installment payments pursuant to R6-14-304(1)(a) through (c).
- C. Intercept of unemployment compensation benefits.
- D. Under 7 CFR 273.18(g)(8), the Department may use other collection methods that include:
  - 1. Submit the claim to the Arizona Department of Revenue for payment through a state tax refund.
  - 2. Submit the claim to the Arizona Lottery Commission for payment through a lottery winnings offset.
  - 3. Submit the claim to the federal Treasury Offset Program pursuant to 7 CFR 273.18(n).
  - 4. Wage garnishment established through a civil judgment or criminal restitution order. When the Department has obtained a judgment or order, the Department shall:
    - a. Send the household a Pre-Garnishment Notice to allow the household to agree to pay the claim in a manner other than wage garnishment; and
    - b. If the household fails to arrange for payment in response to the Pre-Garnishment Notice, the Department may request the Arizona Attorney General's Office to initiate a wage garnishment pursuant to A.R.S. Title 12, Chapter 9, Article 4.1, and that garnishment may continue until the claim is paid in full.
  - 5. Garnishment or levy of monies or property, pursuant to A.R.S. Title 12, Chapter 9, Article 4.
  - 6. Imposition or enforcement of all liens, including judgment liens imposed pursuant to A.R.S. § 33-961.
  - 7. Any other legal or equitable remedy for the collection of debts and judgments.
- E. Under 7 CFR 273.18(i)(2), the Department may accept a claim from another state if the household subject to the claim receives Nutrition Assistance benefits in Arizona, when:
  - 1. The Department confirms that the household was notified by the other state of the overpayment; and
  - 2. There is no pending or unresolved Fair Hearing or Appeal of the overpayment in the other state.
- F. Under 7 CFR 273.18(j) and at the Arizona Attorney General's direction, the Department shall act on behalf of the federal Food and Nutrition Service in any bankruptcy proceeding against a household subject to a claim.

**R6-14-308. Expired Notice of Claim**

To begin collection on a claim, the Department shall send the household a Notice of Claim. At a minimum, the notice shall include all elements required under 7 CFR 273.18(e)(3)(iv).

**ARTICLE 4. EXPIRED APPEALS AND FAIR HEARINGS**

**R6-14-401. Expired Entitlement to a Fair Hearing: Appealable Action**

Any applicant or recipient who disagrees with any action or inaction by the Department has the right to challenge the action or inaction by requesting an administrative or fair hearing. Administrative hearings are conducted by the Department's Office of Appeals. In this Article, "hearing" refers to a Fair Hearing as required in 7 CFR 273.15.

**R6-14-402. Expired Computation of Time**

- A. In computing any time period:
  - 1. "Day" means a calendar day;
  - 2. "Working day" means Monday through Friday, excluding federal or Arizona state holidays;
  - 3. The Department does not count the date of the act, event, notice, or default from which a designated time period begins to run as part of the time period; and
  - 4. The Department counts the last day of the designated time period unless it is a Saturday, Sunday, federal holiday or Arizona state holiday.



**B.** Documents sent by the Department are received by an applicant or recipient on the date sent to the applicant or recipient's last known street or electronic mail address, plus an additional five calendar days only when sent by United States Postal Service. The send date is the date shown on the document unless the facts show otherwise.

**R6-14-403. Request for Hearing: Form; Time Limits; Presumptions**

**A.** An applicant or recipient who wishes to appeal an action or inaction shall make an oral or written request for a hearing to the Department within 90 days of the notice date advising the applicant or recipient of the action, except that a recipient may appeal the current level of benefits at any time within a certification period. Action by the Department shall include a denial of a request for restoration of any benefits lost more than 90 days but less than one year prior to the request for a hearing. An applicant or recipient may file a request for hearing in-person or by mail, fax, or Internet. The Department shall provide a form for this purpose and, upon request, shall help an applicant or recipient complete the form. If the applicant or recipient makes an oral request for a hearing, the Department shall reduce the appeal and the stated reasons for the appeal to writing, record the date of the oral request, and forward the request to the Office of Appeals. The freedom to make a request for a hearing shall not be limited or interfered with in any way.

**B.** An appellant is an applicant or recipient who files an appeal. The appellant shall include the following information in the request for hearing:

1. Name, address, electronic mail address, if applicable, and telephone number of the appellant;
2. A description of the action or inaction that is the subject of the appeal;
3. The date of the notice of adverse action or inaction; and
4. A statement explaining why the appellant disagrees with the action or inaction.

**C.** The Department shall process any oral or written request for a hearing as long as the request contains sufficient information for the Department to determine the appellant's identity.

**D.** The Department deems a request for hearing filed on:

1. If the appellant sends the request for hearing by first-class mail through the United States Postal Service to the Department:
  - a. The mailing date as shown by the postmark;
  - b. In the absence of a postmark, the postage meter mark on the envelope in which it is received; or
  - c. If not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.
2. The date the Department actually receives the request, if not mailed.

**E.** A document is timely filed if the appellant can demonstrate that any delay in submission was due to any of the following reasons:

1. Department error or misinformation.
2. Delay or other action by the United States Postal Service, or
3. Delay due to the appellant's changing mailing addresses at a time when the appellant had no duty to notify the Department of the change.

**F.** When the Office of Appeals receives an untimely request for a hearing, the Office of Appeals shall determine whether the delay in submission is excusable, as provided in subsection (E).

**G.** An appellant whose appeal the Office of Appeals denies as untimely may petition for review of this issue as provided in R6-14-416.

**H.** The Department shall expedite a hearing request for any person covered by 7 CFR 273.15(i)(2).

**I.** The Department shall provide interpreters or other language services at no cost to persons who speak a language other than English. This shall include explaining the hearing procedures orally in the person's language if the materials are not translated into the person's language.

**J.** The Department shall offer an agency conference as provided by 7 CFR 273.15(d) to those persons denied expedited service and to any person who requests a conference.

**R6-14-404. Stay of Action Pending Appeal**

As provided by 7 CFR 273.15(k), and subject to the exceptions listed in that regulation, if the appellant timely requests a fair hearing, the Department shall stay the implementation of an action until the hearing officer renders a decision on the appeal and the person receives the decision, unless the appellant signs a waiver of continuation of benefits.

**R6-14-405. Hearings: Location; Notice; Time**

**A.** The Office of Appeals shall schedule the hearing. The Office of Appeals may schedule a telephonic hearing instead of an in-person hearing or permit a witness or party, upon request, to appear telephonically.

**B.** Unless the appellant requests an earlier hearing date, the Office of Appeals shall schedule the hearing no earlier than 20 days from the date the Department receives the appellant's request for hearing.

**C.** The Office of Appeals shall send a notice of hearing to all parties at least 20 days before the hearing date, unless a request for an earlier hearing date is granted under subsection (B).

**D.** The notice of hearing shall be in writing and shall:

1. Advise the appellant or the appellant's representative of the name, address, and phone number to notify the Office of Appeals in the event it is not possible for the appellant to attend the hearing;
2. Specify that the Office of Appeals will dismiss the hearing request if the appellant or the appellant's representative fails to appear for the hearing without good cause;
3. Include the Office of Appeals hearing procedures and any other information that would provide the appellant with an understanding of the proceedings and that would contribute to the effective presentation of the appellant's case, which shall include a pre-hearing summary prepared by the Department; and
4. Explain that the appellant or the appellant's representative shall be given adequate opportunity to:
  - a. Examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the Department to establish the household's ineligibility or eligibility and allotment shall be made available, provided that con-



Confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release. If requested by the household or its representative, the Department shall provide a free copy of the portions of the case file that are relevant to the hearing. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing officer's decision.

- b. Present the case or have it presented by a legal counsel or other person.
  - c. Bring witnesses.
  - d. Advance arguments without undue interference.
  - e. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses.
  - f. Submit evidence to establish all pertinent facts and circumstances in the case.
5. The notice shall include information about the availability of free legal services.

**R6-14-406. Postponing the Hearing**

- A.** The appellant may request and is entitled to receive one postponement of the first scheduled hearing. The postponement shall not exceed 30 days and the time limit for action on the decision may be extended for as many days as the hearing is postponed. The Office of Appeals may grant subsequent postponements upon a showing of good cause.
- B.** When the Office of Appeals reschedules a hearing under this Section, the Office of Appeals shall send the notice of rescheduled hearing at least 11 days prior to the date of the rescheduled hearing, unless the appellant agrees to shorter notice.

**R6-14-407. Hearing Officer: Duties and Qualifications**

- A.** An impartial hearing officer in the Office of Appeals shall conduct all hearings.
- B.** The hearing officer shall:
1. Administer oaths and affirmations;
  2. Regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;
  3. Consider all relevant issues;
  4. Request, receive, and admit into the record all evidence determined necessary to decide the issues being raised;
  5. Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the Department. The hearing officer shall decide on the source of the medical assessment or professional evaluation when the household and the Department are unable to agree on a mutually satisfactory source. The Department shall pay for the medical assessment or professional evaluation when such services are not available to the household as part of the household's current health insurance coverage; and
  6. Render a hearing decision and issue a written decision.

**R6-14-408. Change of Hearing Officer: Challenges for Cause**

- A.** A party may request a change of hearing officer as prescribed in A.R.S. § 41-1992(B) by filing an affidavit that shall include:
1. The case name and number.
  2. The hearing officer assigned to the case, and
  3. The name and signature of the party requesting the change.
- B.** The party requesting the change shall file the affidavit with the Office of Appeals and send a copy to all other parties at least five days before the hearing date.
- C.** A party shall request only one change of hearing officer unless that party is challenging a hearing officer for cause under subsection (E).
- D.** A party may not request a change of hearing officer once the hearing officer has heard and decided a motion except as provided in subsection (E).
- E.** At any time before a hearing officer renders a final decision under R6-14-414, a party may challenge a hearing officer on the grounds that the hearing officer is not impartial or disinterested in the case.
- F.** A party who brings a challenge for cause shall file an affidavit as provided in subsection (A) and send a copy of the affidavit to all other parties. The affidavit shall explain the reason why the assigned hearing officer is not impartial or disinterested.
- G.** The hearing officer being challenged for cause may hear and decide the challenge unless:
1. A party specifically requests that another hearing officer make the determination, or
  2. The assigned hearing officer recuses himself or herself.
- H.** The Office of Appeals shall transfer the case to another hearing officer when:
1. A party requests a change as provided in subsections (A) through (D); or
  2. The hearing officer is removed for cause, as provided in subsections (E) through (G).
- I.** The Office of Appeals shall send the parties written notice of the new hearing officer assignment.

**R6-14-409. Subpoenas**

- A.** A party who wishes to have a witness testify at a hearing or to offer a particular document or item in evidence shall first attempt to obtain the witness or evidence by voluntary means. Subpoena forms are available to the appellant under R6-14-410(2).
- B.** If the party cannot obtain the voluntary attendance of the witness or production of the evidence, the party may ask the assigned hearing officer to issue a subpoena for a witness, document, or other physical evidence or to otherwise obtain the requested evidence.
- C.** The party seeking the subpoena shall send the hearing officer a written request for a subpoena. The request shall include:
1. The case name and number;
  2. The name of the party requesting the subpoena;
  3. The name and address of any person to be subpoenaed;



- 4. A description of any documents or physical evidence the appellant desires the hearing officer to subpoena, including the title, appearance, and location of the item if the appellant knows its location, and the name and address of the person in possession of the item;
- 5. A statement about the expected substance of the testimony or other evidence as well as the relevance and importance of the requested testimony or other evidence; and
- 6. A description of the party's efforts to obtain the witness or evidence by voluntary means.
- D.** A party shall request a subpoena at least five working days before the hearing date.
- E.** The hearing officer shall deny the request if the witness's testimony or the physical evidence is not relevant to an issue in the case or is duplicative.
- F.** The Office of Appeals shall prepare all subpoenas and serve them by mail, except that the Office of Appeals may serve subpoenas to state employees who are appearing in the course of their jobs, by regular mail, hand-delivered mail, electronic mail, or interoffice mail.

**R6-14-410. Parties' Rights**

The appellant and the Department have the following rights:

- 1. The right to request a postponement of the hearing;
- 2. The right to receive before and during the hearing a free copy of any documents in the Department's file on the appellant and documents the Department may use at the hearing, except documents protected by the attorney-client or work-product privilege or as otherwise protected by federal or state confidentiality laws;
- 3. The right to request a change of hearing officer;
- 4. The right to request subpoenas for witnesses and evidence;
- 5. The right to be represented by an authorized representative, subject to any limitations on the unauthorized practice of law in the Rules of the Supreme Court of Arizona, Rule 31;
- 6. The right to bring witnesses, present evidence, and to confront and cross-examine adverse witnesses;
- 7. The right to advance arguments without undue interference, to question or refute any testimony or evidence, and
- 8. The right to further appeal, as provided in R6-14-416 and R6-14-417, if dissatisfied with the Office of Appeals decision.

**R6-14-411. Withdrawal of an Appeal**

- A.** An appellant may withdraw an appeal at any time prior to the time the hearing officer issues a decision.
  - 1. An appellant may withdraw an appeal orally, either in person or by telephone. The Department may record the audio of the withdrawal. The Department is prohibited from coercion or actions that would influence the appellant or the appellant's representative to withdraw the fair hearing request. The Department must provide a written notice within 10 days of the oral request confirming the withdrawal request and providing the appellant an opportunity to reinstate a hearing. The notice shall explain the appellant's right to request or reinstate the hearing within 10 days of when they receive the notice.
  - 2. An appellant may withdraw an appeal by signing a written statement expressing the intent to withdraw. The Department shall make a withdrawal form available for this purpose.
- B.** The Department shall dismiss the appeal upon receipt of a withdrawal request signed by the appellant or the appellant's representative, or upon receipt of a statement of withdrawal made on the record when the hearing officer has accepted the withdrawal.

**R6-14-412. Failure to Appear; Default; Reopening**

- A.** If an appellant fails to appear at the hearing, the hearing officer shall:
  - 1. Enter a default and issue a decision dismissing the appeal, except as provided in subsection (B);
  - 2. Rule summarily on the available record; or
  - 3. Adjourn the hearing to a later date and time.
- B.** The hearing officer shall not enter a default or rule summarily if the appellant notifies the Office of Appeals before the scheduled time of hearing that the appellant cannot attend the hearing because of good cause and still desires a hearing or wishes to have the matter considered on the available record. Good cause exists if circumstances beyond the party's reasonable control make it unduly difficult or burdensome for the party or the party's representative to attend the hearing at the scheduled time.
- C.** A party who did not appear at the hearing may file a request to reopen the proceedings no later than 10 days after the hearing. The request shall be in writing or be made in person and shall demonstrate good cause for the party's failure to appear.
- D.** If the hearing officer finds that the party had good cause for failure to appear, the hearing officer shall reopen the proceedings and schedule a new hearing with notice to all interested parties as prescribed in R6-14-405.
- E.** Good cause, for the purpose of reopening a hearing, is established if the failure to appear at the hearing and the failure to timely notify the hearing officer were beyond the reasonable control of the nonappearing party. Good cause also exists when the nonappearing party demonstrates excusable neglect, as used in Arizona Rules of Civil Procedure, Rule 60(b)(1) for both the failure to appear and the failure to timely notify the hearing officer.

**R6-14-413. Hearing Proceedings**

- A.** The hearing is a de novo proceeding. The Department has the initial burden of presenting the evidence to support the adverse action being appealed.
- B.** The standard of proof is a preponderance of the evidence.
- C.** The Arizona Rules of Evidence do not apply at the hearing. The hearing officer may admit and give probative effect to evidence as prescribed in A.R.S. § 41-1062(A).
- D.** The Office of Appeals shall record all hearings. The Office of Appeals shall also transcribe the proceedings when a transcription is requested by the Appeals Board or when a transcription is required for a judicial review under A.R.S. § 41-1993. If a transcript is prepared for any purpose, the appellant is entitled to a copy of the transcription at no cost.



- E. A party may, at the party's own expense, arrange to have a court reporter present to transcribe the hearing, provided that such transcription does not delay or interfere with the hearing. The Office of Appeal's recording of the hearing shall constitute the official record of the hearing.
- F. The hearing officer shall call the hearing to order and dispose of any prehearing motions or issues.
- G. With the consent of the hearing officer, the parties may stipulate to factual findings or legal conclusions.
- H. Upon request and with the consent of the hearing officer, a party may make opening and closing statements. The hearing officer shall consider any statements as argument and not evidence.
- I. A party may testify, present evidence, call witnesses, cross-examine adverse witnesses, and object to evidence. The hearing officer may also take witness testimony or admit evidence on the hearing officer's own motion.
- J. The hearing officer shall keep a complete record of all proceedings in connection with an appeal.
- K. The hearing officer may request the parties to submit memoranda on issues in the case if the hearing officer finds that the memoranda would assist the hearing officer in deciding the case. The hearing officer shall establish a briefing schedule for any required memoranda.
- L. The recording of the hearing, all the evidence presented at the hearing and all papers and requests filed shall constitute the record and shall be available to the household or its representative at any reasonable time for copying and inspection.

**R6-14-414. Hearing Decision**

- A. No later than 60 days after the date the appellant files a request for hearing with the Department, the hearing officer shall render a decision based solely on the evidence and testimony produced at the hearing and the applicable law. The 60-day time limit is extended for any delay necessary to accommodate hearing continuances or extensions, or postponements requested by a party.
- B. The hearing decision shall include:
  - 1. Findings of fact concerning the issue on appeal.
  - 2. Citations to the law and authority applicable to the issue on appeal.
  - 3. A statement of the conclusions derived from the controlling facts and law and the reasons for the conclusions.
  - 4. The name of the hearing officer.
  - 5. The date of the decision.
  - 6. A statement of further appeal rights and the time period for exercising those rights, and
  - 7. That an appeal may result in a reversal of the decision.
- C. The Office of Appeals shall send a copy of the decision to each party or the party's representative.
- D. When requested by the appellant, the Department, or upon the hearing officer's own motion, the Office of Appeals may amend or vacate a decision to correct clerical errors, including typographical and computational errors.

**R6-14-415. Effect of the Decision**

- A. If the hearing officer affirms the adverse action against the appellant, the adverse action is effective as of the date of the initial determination of adverse action by the Department. The adverse action remains effective until the appellant appeals and obtains a higher administrative or judicial decision reversing or vacating the hearing officer's decision.
- B. If the hearing officer vacates or reverses the Department's decision to take adverse action, the Department shall not take the action or shall reverse any adverse action.

**R6-14-416. Further Administrative Appeal**

- A. A party can appeal an adverse decision issued by a hearing officer to the Department's Appeals Board as prescribed in A.R.S. § 41-1992(C) and (D) by filing a written petition for review with the Office of Appeals within 15 days of the mailing or transmittal date of the hearing officer's decision.
- B. The petition for review shall:
  - 1. Be in writing and filed in person, by mail, or fax.
  - 2. Describe why the party disagrees with the hearing officer's decision, and
  - 3. Be signed and dated by the party or the party's representative.

**R6-14-417. Appeals Board**

- A. The Appeals Board shall conduct proceedings in accordance with A.R.S. §§ 41-1992(D) and 23-672.
- B. The Appeals Board shall issue to all parties a final written decision affirming, reversing, setting aside, or modifying the hearing officer's decision based on the record. The decision of the Appeals Board shall specify the parties' rights to seek further review and the time for filing an application for appeal.
- C. An appellant adversely affected by an Appeals Board decision may seek judicial review under A.R.S. § 41-1993.

**ARTICLE 5. EXPIRED INTENTIONAL PROGRAM VIOLATION****R6-14-501. Expired Intentional Program Violation (IPV): Defined**

- A. An Intentional Program Violation (IPV) consists of having intentionally:
  - 1. Made a false or misleading statement, or misrepresented, concealed, or withheld facts; or
  - 2. Committed any act that constitutes a violation of the Food Stamp Act, Nutrition Assistance Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of nutrition assistance benefits or EBT cards.
- B. For the purpose of imposing sanctions as prescribed in R6-14-505, a person is considered to have committed an IPV if:
  - 1. A person signs a waiver of an Administrative Disqualification Hearing.
  - 2. A person is found to have committed an IPV by an Administrative Disqualification Hearing, or



- 3. A person is convicted of a criminal offense the elements of which would constitute an IPV under subsection (A) above or enters into a disqualification consent agreement for deferred prosecution for fraud in a court of law.

**R6-14-502. Expired IPV Administrative Disqualification Hearings: Hearing Waiver**

- A.** Upon receipt of sufficient documentary evidence substantiating that a person has committed an IPV, the Department shall initiate either an Administrative Disqualification Hearing, or a referral for prosecution.
- B.** When the Department initiates an Administrative Disqualification Hearing, the Department shall mail the person suspected of an IPV written notice of the right to waive the Administrative Disqualification Hearing. This notice shall be sent either by first class mail or certified mail – return receipt requested.
- C.** The waiver notice of the Administrative Disqualification Hearing shall include the following information as well as the information described in R6-14-503(D):
  - 1. A statement that the Department has determined that the individual suspected of the IPV committed one or more acts described in R6-14-501(A) and that the Department has initiated an Administrative Disqualification Hearing against the individual suspected of the IPV.
  - 2. A summary of the allegations and evidence against the individual suspected of the IPV and notification that the individual suspected of the IPV has the right to examine and, when requested by the individual or representative, be provided a free copy of the portions of the case file that are relevant to the hearing.
  - 3. A statement of the right of the individual suspected of the IPV to remain silent concerning the allegation of an IPV, and that anything said or signed by the individual concerning the allegations can be used against the individual suspected of the IPV in a court of law, including signing any part of the waiver.
  - 4. A statement that signing a waiver of the Administrative Disqualification Hearing will result in disqualification periods as determined by R6-14-505, a statement of the penalty the Department believes is applicable to the case scheduled for a hearing, and a reduction in benefits for the period of disqualification, even if the individual suspected of the IPV does not admit to the facts as presented by the Department.
  - 5. A statement that the individual suspected of the IPV does not have to sign a waiver of the Administrative Disqualification Hearing, return the waiver form to the Department, or speak to anyone at the Department.
  - 6. A listing of the individual suspected of the IPV’s fair hearing rights contained in 6 A.A.C. 14, Article 4 and notification that the individual suspected of the IPV will waive these rights if the waiver of the Administrative Disqualification Hearing is signed.
  - 7. A statement that waiver of the Administrative Disqualification Hearing does not preclude the State or Federal Government from prosecuting the individual suspected of the IPV for the IPV in a civil or criminal court action, or from collecting any overissuance of Nutrition Assistance benefits.
  - 8. A statement that the individual suspected of the IPV may wish to consult an attorney and a list of any individuals or organizations that provide free legal representation.
  - 9. A statement that Nutrition Assistance benefits will continue and will only be terminated if the following occurs:
    - a. The individual suspected of the IPV signs a notice to waive their rights to an Administrative Disqualification Hearing.
    - b. There is an Administrative Disqualification Hearing decision that the individual suspected of the IPV is disqualified.
    - c. The individual is determined to no longer be eligible on other grounds, or
    - d. The individual requests that the Nutrition Assistance benefits not be continued in order to avoid a potential overissuance of benefits.
  - 10. A statement that the remaining household members, if any, will be held responsible for repayment of the resulting overissuance claim.
  - 11. An opportunity for the individual suspected of the IPV to specify whether or not the individual admits to the facts as presented by the Department. This opportunity shall consist of the following statements, and a method for the individual suspected of the IPV to designate the individual’s waiver choice:
    - a. I admit to the facts as presented and understand that a disqualification penalty will be imposed if I sign this waiver. I understand that if I sign this waiver, there will not be an Administrative Disqualification Hearing; or
    - b. I do not admit that the facts as presented are correct in my Nutrition Assistance case. However, I have chosen to sign this waiver of the Administrative Disqualification Hearing. I also understand that a disqualification penalty will be imposed. I understand that if I mark this box, I will not be able to submit additional evidence, have an Administrative Disqualification Hearing, or have the right to administrative appeal.
    - c. A statement that the individual suspected of the IPV does not waive the individual’s right to an Administrative Disqualification Hearing and a method to indicate this choice:  
I do not admit that I committed an Intentional Program Violation and I do not waive my right to an Administrative Disqualification Hearing where the Department must prove that I committed an Intentional Program Violation. I understand that I may attend the hearing but I am not required to attend. If I attend the hearing, I may talk to the judge about what happened. I understand that at my hearing, I can present additional evidence to the judge if I want. I understand that I have the right to remain silent. I understand that the judge will decide if I will be disqualified from participating in the Nutrition Assistance program.
  - 12. The telephone number of the appropriate Department unit which the individual may contact to obtain additional information.
  - 13. A due date that the signed waiver of an Administrative Disqualification Hearing must be provided to the Department so that a hearing will not be held and a signature line for the individual suspected of the IPV, along with a statement that the head of household must also sign the waiver if the individual suspected of the IPV is not the head of household, with an appropriately designated signature line.
- D.** For the purpose of imposing sanctions as prescribed in R6-14-505, a timely signed waiver of an Administrative Disqualification Hearing shall have the same effect as an administrative adjudication that an IPV occurred.

**R6-14-503. ~~Expired~~ Administrative Disqualification Hearings**

- A.** The rules on fair hearings apply to Intentional Program Violation (IPV) Administrative Disqualification Hearings, except as provided in this Article.
- B.** All IPV Administrative Disqualification Hearings are conducted by the Department's Office of Appeals.
- C.** If the individual suspected of an IPV does not sign and return the waiver of Administrative Disqualification Hearing by the return date set in the waiver notice, or returns the waiver notice stating they do not waive the Administrative Disqualification Hearing, the Office of Appeals shall send the individual a written hearing notice. The Office of Appeals shall send the notice by first class mail, certified mail return receipt requested, or any other reliable method, no later than 30 days before the scheduled hearing date.
- D.** The hearing notice shall include the following information:
1. The date, time, and place of the hearing;
  2. The allegations of an IPV against the individual;
  3. A summary of the evidence, and how and where the evidence can be examined. When requested by the household or its representative, the Department shall provide a free copy of the portions of the case file that are relevant to the hearing;
  4. A notice that the decision will be based solely on information provided by the Department if the individual suspected of the IPV fails to appear at the hearing;
  5. A statement that the individual or representative will, upon receipt of the notice, have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;
  6. A warning that a determination of IPV will result in disqualification periods as defined by section R6-14-505, and a statement of which penalty the Department believes is applicable to the case scheduled for a hearing;
  7. A listing of the individual's rights as contained in R6-14-410;
  8. A statement that the Administrative Disqualification Hearing does not preclude the State or Federal Government from prosecuting the individual for the IPV in a civil or criminal court action, or from collecting any overissuance of Nutrition Assistance benefits;
  9. A statement that the individual suspected of the IPV may consult with an attorney and a list of any individuals or organizations known to the Department that provide free legal representation; and
  10. A notice that the individual suspected of the IPV has the right to obtain a copy of the Department's published hearing procedures together with an explanation of how the individual suspected of the IPV can obtain these procedures.
- E.** The hearing officer shall postpone a hearing for up to 30 days if the individual suspected of the IPV files a written or oral request for postponement with the hearing officer no later than 10 days before the hearing date. Any such postponement shall increase the time by which the hearing officer shall issue a decision, as provided in subsection (G) below.
- F.** The time and place for the hearing shall be arranged so that the hearing is accessible to the individual suspected of the IPV, including making reasonable accommodations for a person with a disability.
- G.** At the start of the Administrative Disqualification Hearing, the hearing officer shall advise the individual suspected of the IPV or representative of the right to remain silent during the hearing and the consequences of exercising that right, including the court's ability to draw an adverse inference from silence. The hearing officer shall also advise that if the individual suspected of the IPV or representative chooses not to exercise the right to remain silent, anything they say could be used against them.
- H.** A hearing officer, as prescribed in R6-14-407, shall conduct the Administrative Disqualification Hearing pursuant to the procedures set forth in R6-14-408, R6-14-409, R6-14-410, and R6-14-413, except as prescribed in this subsection.
- I.** The Department shall prove by clear and convincing evidence that the household member committed an IPV.
- J.** No later than 90 days from the date of the notice of hearing, as increased by any postponement days, the hearing officer shall send to the individual suspected of the IPV a written decision. The hearing officer shall find whether the evidence shows by clear and convincing evidence that the person committed an IPV or did not commit the IPV. The decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent regulation, and respond to reasoned arguments made by the individual suspected of the IPV or representative.

**R6-14-504. ~~Expired~~ Failure to Appear; Default; Reopening**

- A.** If the individual suspected of the IPV fails to appear at the Administrative Disqualification Hearing without good cause, the hearing officer shall conduct the hearing.
- B.** The hearing officer shall not conduct the hearing if the individual suspected of the IPV notifies the Office of Appeals before the hearing that the individual cannot attend the hearing because of good cause and still desires a hearing. Good cause exists if circumstances beyond the party's reasonable control make it unduly difficult or burdensome for the party or the party's representative to attend the hearing on the scheduled date.
- C.** An individual suspected of the IPV who did not appear at the hearing may file a request to reopen the Administrative Disqualification Hearing. The request shall be in writing and shall demonstrate good cause for the party's failure to appear.
1. The individual suspected of the IPV has 30 days after the date of the written notice of the hearing decision to file a request to reopen the Administrative Disqualification Hearing if the individual did not receive a hearing notice.
  2. In all other instances, the individual suspected of the IPV has 10 days from the hearing date to show good cause why the individual failed to appear.
- D.** The hearing officer shall review the good cause reason submitted by the individual suspected of the IPV and unless the hearing officer can grant or deny the request based on the information provided, shall set the matter for a hearing to determine whether the individual suspected of the IPV had good cause for failing to appear.
- E.** If the hearing officer finds that the individual suspected of the IPV had good cause for failure to appear, the previous decision shall be vacated and the hearing officer shall reopen the Administrative Disqualification Hearing and schedule a new hearing with notice to all parties. The hearing officer must enter the good cause decision on the record.
- F.** Good cause, for the purpose of reopening an Administrative Disqualification Hearing, is established if the failure to appear at the hearing and the failure to timely notify the hearing officer were beyond the reasonable control of the individual suspected of the IPV. Good cause also exists when the individual suspected of the IPV demonstrates excusable neglect for both the failure to appear and the



failure to timely notify the hearing officer. “Excusable neglect” means an action involving an error such as might be made by a reasonably prudent person who attempts to handle a matter in a prompt and diligent fashion.

**R6-14-505. Expired Disqualification Sanctions: Notice**

- A.** A person found to have committed an IPV is disqualified from program participation:
  - 1. For a period of 12 months for the first IPV, except as provided under subsections (B) through (E) of this section;
  - 2. For a period of 24 months for the second IPV, except as provided in subsections (B) through (E) of this section;
  - 3. Permanently for the third IPV; and
  - 4. The same act of IPV repeated over a period of time shall not be separated so that separate penalties can be imposed.
- B.** Individuals found by any court to have used or received benefits in a transaction involving the sale of a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), shall be ineligible to participate in the program: For a period of 24 months for the first violation; and Permanently upon the second violation.
- C.** Individuals found by any court to have used or received benefits in a transaction involving the sale of firearms, ammunition, or explosives shall be permanently ineligible to participate in the program upon the first violation.
- D.** An individual convicted by any court of having trafficked benefits for an aggregate amount of \$500 or more shall be permanently ineligible to participate in the program upon the first violation.
- E.** Except as provided under subsection (A)(3) of this section, an individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple Nutrition Assistance benefits simultaneously shall be ineligible to participate in the program for 10 years.
- F.** The Department shall not include the needs of the disqualified person in the household but shall count the income and resources of the disqualified person available to the household.
- G.** Upon a determination of IPV, the Department shall notify the disqualified person in writing of the pending disqualification. The written notice shall:
  - 1. Inform the disqualified person of the decision and the reasons for the decision; and
  - 2. Inform the disqualified person of the date the disqualification will take effect and the duration of the disqualification. If the disqualified person is no longer receiving Nutrition Assistance benefits, the notice shall inform the disqualified person that the period of disqualification will be deferred until such time as the disqualified person again applies for and is determined eligible for Nutrition Assistance benefits.

**R6-14-506. Expired Administrative Disqualification Hearings or Waiver of the Right to a Hearing: Appeal**

- A.** Upon a determination of IPV through a signed waiver of an Administrative Disqualification Hearing, the individual has no right to further administrative appeal. The individual may seek relief in a court having jurisdiction and may seek a stay or other injunctive relief of a period of disqualification.
- B.** A person found to have committed an IPV through an Administrative Disqualification Hearing has no right to further administrative appeal but may seek relief in a court of appropriate jurisdiction.

**R6-14-507. Expired Honoring Out-of-State IPV Determinations and Sanctions**

The Department shall honor sanctions imposed against an applicant or recipient by the agency of another state that administers the Nutrition Assistance program and shall consider prior violations committed in another state when determining the appropriate sanction.



**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  
BOARD OF DISPENSING OPTICIANS**

[R18-135]

1. **Title and its heading:** 4, Professions, and Occupations  
**Chapter and its heading:** 20, Board of Dispensing Opticians  
**Article and its heading:** 1, General  
**Section number:** R4-20-102, R4-20-103, R4-20-104, R4-20-105, R4-20-106, R4-20-107, R4-20-109, R4-20-110, R4-20-112, R4-20-113, R4-20-115, R4-20-119, R4-20-123, R4-20-124, R4-20-125, R4-20-126, Table 1
  
2. **The subject matter of the proposed rule:**  
 The rule provides detailed licensing, regulatory information, and procedural instructions. The Board is proposing to amend rule R4-20-102 for clarification on material necessary to submit with the application for licensure. The Board is proposing to accept national practical examination results for licensure in Arizona. The Board is also, including language to assist military veterans with qualification for licensure. R4-20-103, R4-20-104, R4-20-105, and R4-20-106 are being repealed to allow the Board more flexibility in accepting national practical examination results versus the Board proctoring a practical every six months. This will allow applicants more flexibility in taking the practical exam offered by national organizations more frequently and at various locations throughout the country. R4-20-107, R4-20-109 and R4-20-110 are being amended to remove the notarization requirement as all applications are now accepted online through E-Licensing. R4-20-112 is being amended to remove the license application fee and re-numbering remaining fees. R4-20-113 is amended as a housekeeping measure to correct a misspelling. R4-20-115 is being amended to remove the word "postmarked" as all applications are now accepted online through E-Licensing. R4-20-119 is being amended to update the ANSI Standards incorporated by reference. R4-20-123, R4-20-124, R4-20-125, and R4-20-126 are being repealed due to duplication of GRRC Rules. Table 1 is being amended to remove the time-frame for approval to take the practical exam.
  
3. **A citation to all published notices relating to the proceeding:**  
 None
  
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
 Name: Megan Darian, Executive Director  
 Address: Board of Dispensing Opticians  
 1740 W. Adams, Suite 3001  
 Phoenix, AZ 85007  
 Telephone: (602) 542-8158  
 Fax: (602) 926-8103  
 E-mail: mdarian@do.az.gov
  
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
 Written Comments: The board will continue to accept written comments at the location listed above between 8 a.m. and 5 p.m. Monday through Friday, until the close of record.
  
6. **A timetable for agency decisions or other action on the proceeding, if known:**  
 To be determined.



NOTICE OF RULEMAKING DOCKET OPENING
ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ADMINISTRATION

[R18-146]

- 1. Title and its heading: 9, Health Services
Chapter and its heading: 22, Arizona Health Care Cost Containment System - Administration
Article and its heading: 7, Urban Hospital Inpatient Reimbursement Program
Section numbers: R9-22-712.05 (As part of this rulemaking, the Administration may add, delete, or modify sections as necessary.)

2. The subject matter of the proposed rule:
A.R.S. § 36-2903.01 requires the Administration to describe in rule how Graduate Medical Education (GME) funds are calculated and distributed. The intention of this rulemaking is to modify the method of allocating funds for indirect GME costs. Pursuant to A.R.S. § 36-2903.01(G)(9), certain public entities are permitted to transfer funds to the AHCCCS Administration to support these distributions. The Centers for Medicare and Medicaid Services (CMS) require the AHCCCS Administration to annually update the amount allocated to each hospital in the State Plan. Before AHCCCS may make GME payments, a State Plan Amendment (SPA) must be submitted and approved by CMS.

Currently, indirect GME costs are calculated two different ways and the AHCCCS Administration allocates indirect GME based on the greatest of these two methodologies. Children’s hospitals are unable to submit information to the Centers for Medicare and Medicaid Services on the Medicare Cost Reports Worksheet E, Part A. Since AHCCCS uses information on Worksheet E, Part A as one way to calculate the Indirect GME costs, there is only one methodology for calculating indirect GME costs for children’s hospitals.

AHCCCS proposes allowing an alternative method for calculating Indirect GME for children’s hospitals whereby a median per resident total indirect GME cost is determined for all hospitals which supply such information on the Medicare Cost Report. The median per resident total indirect cost would then be multiplied by the number of allocated residents at a children’s hospital and the Medicaid utilization percent used to determine the direct GME component.

- 3. A citation to all published notices relating to the proceeding:
Notice of Proposed Rulemaking: 24 A.A.R. 2061, July 27, 2018 (in this issue)

4. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Nicole Fries
Address: AHCCCS
Office of Administrative Legal Services
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4232
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov

5. The time which the agency will accept written comments and the time and place where oral comments may be made:

The Administration will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in question #4. Public hearings will be scheduled later to provide a forum for interactive discussion with interested parties. E-mail comments will be accepted.

6. A timetable for agency decisions or other action on the proceeding, if known:

The Administration has initiated this rulemaking within the 60-day time period as stated under A.R.S. § 41-1033. The Notice of Proposed Rulemaking is published along with this notice.

NOTICE OF RULEMAKING DOCKET OPENING
ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ADMINISTRATION

[R18-147]

- 1. Title and its heading: 9, Health Services
Chapter and its heading: 22, Arizona Health Care Cost Containment System - Administration
Article and its heading: 7, Urban Hospital Inpatient Reimbursement Program
Section numbers: R9-22-721 (As part of this rulemaking, the Administration may add, delete, or modify sections as necessary.)

2. The subject matter of the proposed rule:
During the 2018 legislative session, the Arizona legislature enacted A.R.S. § 36-2905.03 which provided that non-contracted behavioral health inpatient facilities (BHIF’s) would be reimbursed at 90% of the contracted rate. This rulemaking is an effort to codify and clarify which facilities this statute applies to.

AHCCCS intends to encourage contracting between providers and all contractors to best serve AHCCCS members who require



inpatient stays, regardless of whether the BHIF is contracted. The amended rule will encourage competition among BHIF's and Contractors, expand provider networks, promote administrative efficiencies, and authorize AHCCCS to more efficiently and effectively reimburse BHIF's for inpatient stays. Current federal and state statutory provisions do not prohibit such a change. The proposed rulemaking will also limit AHCCCS Program expenditures to BHIF's in this State by extending applicability of the 90% reimbursement to all AHCCCS Contractors responsible for payments to non-contracted BHIF's. As a result, the rulemaking supports payments to BHIF's that are consistent with efficiency, economy, and quality of care, promoting the fiscal health of the State.

**3. A citation to all published notices relating to the proceeding:**

Notice of Proposed Rulemaking: 24 A.A.R. 2066, July 27, 2018 (*in this issue*)

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

Name: Nicole Fries  
Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4232  
Fax: (602) 253-9115  
E-mail: AHCCCSrules@azahcccs.gov

**5. The time which the agency will accept written comments and the time and place where oral comments may be made:**

The Administration will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in question #4. Public hearings will be scheduled later to provide a forum for interactive discussion with interested parties. E-mail comments will be accepted.

**6. A timetable for agency decisions or other action on the proceeding, if known:**

The Administration has initiated this rulemaking within the 60-day time period as stated under A.R.S. § 41-1033. The Notice of Proposed Rulemaking is published along with this notice.



GOVERNOR EXECUTIVE ORDER

Executive Order 2018-02 is being reproduced in each issue of the Administrative Register as a notice to the public regarding state agencies' rulemaking activities.

This order will appear in the Register until its expiration on December 31, 2018, and has been reproduced in its entirety as submitted.

EXECUTIVE ORDER 2018-02

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

[M18-46]

WHEREAS, burdensome regulations inhibit job growth and economic development; and

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

WHEREAS, in 2015 the State of Arizona implemented a moratorium on all new regulatory rulemaking by State agencies through executive order, and renewed the moratorium in 2016 and 2017; and

WHEREAS, in 2017 the State of Arizona eliminated or repealed 676 needless regulations; and

WHEREAS, estimates show these eliminations saved job creators more than \$48 million in operating costs; and

WHEREAS, 161,000 private sector jobs have been added to Arizona since January 2015; and

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

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

WHEREAS, each State agency should evaluate its administrative rules using any available and reliable data and performance metrics; and

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

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

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

- 2. A State agency subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
c. To prevent a significant threat to the public health, peace, or safety.
d. To avoid violating a court order or federal law that would result in sanctions by a federal court for failure to conduct the rulemaking action.
e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
f. To comply with a state statutory requirement.
g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
j. To eliminate rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
3. A State agency subject to this Order, shall not publicize any directives, policy statements, documents or forms on its website unless such are explicitly authorized by Arizona Revised Statutes or Arizona Administrative Code.
4. A State agency subject to this Order, shall coordinate with the Office of Economic Opportunity to prepare a statement of estimated regulatory costs analyzing the economic impact of agency rules, including an analysis of the effort of such rules on the creation and retention of jobs within the State of Arizona.
5. A State agency subject to this Order, shall review the agency's rules related to license reciprocity and identify opportunities to decrease burdens for qualified professionals who relocate to Arizona, whether administrative or legislative, and report these opportunities to the office of the Governor no later than July 1, 2018.



6. A State agency subject to this Order, shall review the agency’s rules to identify opportunities for veterans by recognizing the skills, credentials, and training received during military service in place of some or all of the training requirements for a specific license, and include additional opportunities in the report to the office of the Governor no later than July 1, 2018.
7. For the purposes of this Order, the term “State agencies,” includes without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those State agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
8. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, “person,” “rule,” and “rulemaking” have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.
9. This Executive Order expires on December 31, 2018.

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

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

**DONE** at the Capitol in Phoenix on this Twelfth day of February in the Year Two Thousand and Eighteen and of the Independence of the United States of America the Two Hundred and Thirty-Sixth.

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

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

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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.

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**NOTICE OF EXPEDITED RULEMAKING  
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS  
REGULATION III – CONTROL OF AIR CONTAMINANTS**

[M18-62]

**PREAMBLE**

**AQ-2018-001-INCORPORATION BY REFERENCE JULY 2017-JUNE 2018**

**1. Rules affected: Rulemaking action**

- Rule 360: New Source Performance Standards Amend
- Rule 370: Federal Hazardous Air Pollutant Program Amend
- Rule 371: Acid Rain Amend
- Appendix G: Incorporated Materials Amend

**2. Statutory authority for the rulemaking:**

- Authorizing Statutes: A.R.S. §§ 49-474, 49-479, and 49-480
- Implementing Statutes: A.R.S. §§ 41-1055, 49-112 and 49-471.08

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

- Name: Cheri Dale  
Planning and Analysis Division  
Maricopa County Air Quality Department
- Address: 1001 N. Central Ave., Suite 125  
Phoenix, AZ 85004
- Telephone: (602) 506-6010
- Fax: (602) 506-6179
- Submit Comments At: <https://www.maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

**4. Demonstration of compliance with A.R.S. §49-471.08 expedited rulemaking:**

The Maricopa County Air Quality Department (MCAQD) is proposing to declare this as an expedited rule making action as described in A.R.S. § 49-471.08(A).

**A.R.S. § 49-471.08(A)(1):**

Demonstration that the rule or ordinance making is substantially identical to the sense, meaning and effect of the federal or state rule or law from which it is derived.

Rule 360 is substantially identical to 40 CFR Part 60 revisions:

- 40 CFR Part 60, Subpart XXX—Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014. [81 FR 59332, August 29, 2016; stayed at 82 FR 24879, May 31, 2017; stay expired without further action on August 29, 2017]
- 40 CFR Part 60, Subpart OOOOa—Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After September 18, 2015. [added at 81 FR 35824, June 3, 2016; amended at 83 FR 10628, March 12, 2018]

Rule 370 is substantially identical to 40 CFR Part 61 revisions:



- There were no revisions to 40 CFR Part 61 for this rulemaking.

Rule 370 is substantially identical to 40 CFR Part 63 revisions:

- 40 CFR Part 63, Subpart A. [82 FR 47328, October 11, 2017; and 82 FR 48156, October 16, 2017]
- 40 CFR 63, Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants. [82 FR 45193, September 28, 2017]
- 40 CFR 63, Subpart BB—National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants. [82 FR 45193, September 28, 2017]
- 40 CFR Part 63, Subpart DD—National Emission Standards for Hazardous Air Pollutants From Off-Site Waste and Recovery Operations. [83 FR 3986, January 29, 2018]
- 40 CFR 63, Subpart MM—National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Plants. [82 FR 47328, October 11, 2017]
- 40 CFR 63, Subpart NNN—National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing. [82 FR 34858, July 27, 2017; 82 FR 49132, October 24, 2017; and 82 FR 60873, December 26, 2017]
- 40 CFR 63, Subpart VVV—National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works. [82 FR 49513, October 26, 2017]
- 40 CFR 63, Subpart CCCC—National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast. [82 FR 48156, October 16, 2017]

Rule 371 is substantially identical to 40 CFR Part 72, Part 74, Part 75 and Part 76 and all accompanying appendices revisions:

- There were no revisions to 40 CFR Part 72, Part 74, Part 75 and Part 76 for this rulemaking.

Appendix G is substantially identical to the following revisions:

- 40 CFR Part 50. [83 FR 17226, April 18, 2018]
- 40 CFR Part 51. [81 FR 9339, February 25, 2016; and 83 FR 10376, March 9, 2018]
- 40 CFR Part 51, Appendix M. [83 FR 12260, March 21, 2018]
- 40 CFR Part 53. [83 FR 25451, June 1, 2018]
- 40 CFR Part 58. [83 FR 25451, June 1, 2018]
- Appendix B to Part 60. [82 FR 36688, August 7, 2017]
- Appendix F to Part 60. [82 FR 37822, August 14, 2017; and 82 FR 44106, September 21, 2017]
- Appendix A to Part 63. [83 FR 12118, March 20, 2018]

**In addition, the MCAQD is proposing the following revisions:**

**Rules 360, 370, 371, and Appendix G:**

- To update the incorporation by reference date from July 1, 2017, to July 1, 2018.

**Rule 360:**

- To add 40 CFR Part 60, Subpart XXX—Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014.
- To add 40 CFR Part 60, Subpart OOOOa—Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After September 18, 2015.

**Appendix G:**

- To add t-Butyl Acetate (also known as TBAC; CAS number 540-88-5) to the table of federally listed non-precursor organic compounds, which have been determined to have negligible photochemical reactivity as listed in 40 CFR 51.100(s).

To correct typographical or other clerical errors; make minor grammatical changes to improve readability or clarity; modify the format, numbering, order, capitalization, punctuation, or syntax of certain text to increase standardization within and among rules; and make various other minor changes of a purely editorial nature. As these proposed changes do not alter the sense, meaning, or effect of the rule, they are not described in detail here, but can be readily discerned in the “strikeout and underline” version of the rule contained in Item #6 of this notice.

**A.R.S. § 49-471.08(A)(2):**

Written finding by the Control Officer setting forth the reasons why the rule or ordinance making is necessary and does not alter the sense, meaning or effect of the federal or state rule or law from which it is derived.

This rulemaking is required to update the applicability dates in these rules. It incorporates subparts that have been passed by the federal government which are required to be implemented by the MCAQD. Rules 360, 370, 371, and Appendix G do not alter the sense, meaning or effect of the state rules and federal regulations from which they are derived, as they incorporate language that is essentially the same as the state's applicable rules and the federal code of regulations.

**A.R.S. § 49-471.08(A)(3):**

Demonstration that fees established in the rule or ordinance do not exceed limits specified in A.R.S. § 49-112.

Rules 360, 370, 371, and Appendix G do not establish fees. Any costs associated with these rules will come from permit application fees for sources obtaining a permit revision to reflect new emission limits, due to applicability of a new standard. Therefore, fees associated with these rules will be exactly the same as fees associated with similar permits and would not exceed any limits specified in § 49-112.

**5. Public comments regarding the proposed rulemaking:**

Written comments may be submitted to the MCAQD through the Enhanced Regulatory Outreach Program (EROP) website (refer to Item #3 of this notice).

An oral proceeding will be scheduled only upon receipt of a written request before August 27, 2018, at 5:00 p.m.

Responses to all written comments will be included 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 rules.

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

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

**RULE 360  
NEW SOURCE PERFORMANCE STANDARDS**

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

**RULE 360  
NEW SOURCE PERFORMANCE STANDARDS**

**SECTION 100 – GENERAL**

- 101 **PURPOSE:** To establish acceptable design and performance criteria for specified new or modified emission sources.
- 102 **APPLICABILITY:** The provisions of this rule apply to the owner or operator of any stationary source which contains an affected facility on which the construction, reconstruction, or a modification is commenced after the date of publication of any standard applicable to such facility in 40 CFR Part 60 and for which federal delegation of the implementation and enforcement of the standards to the Maricopa County Air Quality Department (~~“department”~~) (department) has been accomplished. Any such stationary source must also comply with other Maricopa County Air Pollution Control Regulations.
- 103 **AVAILABILITY OF INFORMATION:** Copies of all 40 CFR, Part 60 revisions currently enforced by the department are available as listed:
  - a. Maricopa County Air Quality Department, 1001 N. Central Ave, Suite 125, Phoenix, AZ, 85004.
  - b. Maricopa County Rules are available electronically at <https://www.maricopa.gov/1951/Adopted-Rules>
  - c. EPA documents are available electronically at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>
  - d. ASTM standards are available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428, or from its website at [www.astm.org](http://www.astm.org)
- 104 **FEDERAL DELEGATION AUTHORITY:** The department shall enforce the federal new source performance standards (NSPS) (40 CFR Part 60) listed in Section 300 of this rule which have been delegated to the County by the United States Environmental Protection Agency (EPA) for such enforcement. The department may, in addition, enforce such other NSPS as delegated for such enforcement by the EPA to the County.

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

- 201 **ADMINISTRATOR:** As used in Part 60, Title 40, Code of Federal Regulations, shall mean the Control Officer, except that the Control Officer shall not be empowered to approve alternate or equivalent test methods or alternative standards/work practices, or other nondelegable authorities such as those listed in 40 CFR 60.4(d), except as specifically provided in each subpart.



- 202 **AFFECTED FACILITY** – With reference to a stationary source, any apparatus to which a standard is applicable.
- 203 **COMMENCED:** With respect to the definition of “new source” in Section 111(a)(2) of the Act, that an owner or operator has undertaken a continuous program of construction, reconstruction, or modification or that an owner or operator has entered into a contracted obligation to undertake and complete, within a reasonable time, a continuous program of construction, reconstruction or modification.
- 204 **CONSTRUCTION:** The fabrication, erection, or installation of an affected facility.
- 205 **MODIFICATION:** Any physical change in, or change in the method of operation of, an existing facility which increases the amount of any contaminant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of any air contaminant (to which a standard applies) into the atmosphere not previously emitted.
- 206 **OWNER OR OPERATOR:** Any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.
- 207 **STANDARD:** A standard of performance promulgated under this rule.
- 208 **STATIONARY SOURCE:** Any building, structure, facility, or installation which emits or may emit any air pollutant.

### SECTION 300 – STANDARDS

- 301 **ADOPTED FEDERAL STANDARDS:** The following federal regulations located in the U.S. Code of Federal Regulations, Part 60 of Title 40, Subchapter C (~~“CFR”~~) (CFR) as codified on ~~July 1, 2017~~ July 1, 2018, are herein incorporated by reference in Maricopa County’s Air Pollution Control Regulations. This incorporation by reference includes no future editions or amendments. Each owner or operator subject to the requirements of the following subparts shall comply with the requirements of those subparts and the additional requirements set forth herein. Incorporation by reference does not include nondelegable functions of the EPA Administrator.
- 301.1 **Subpart A**—General Provisions; exclude any sections dealing with equivalency determinations or innovative technology waivers, as covered in Sections 111(h)(3) and 111(j) respectively of the Clean Air Act.
- 301.2 **Subpart D**—Standards of Performance for Fossil-Fuel-Fired Steam Generators for which Construction is Commenced after August 17, 1971.
- 301.3 **Subpart Da**—Standards of Performance for Electric Utility Steam Generating Units for which Construction is Commenced after September 18, 1978.
- 301.4 **Subpart Db**—Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.
- 301.5 **Subpart Dc**—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.
- 301.6 **Subpart E**—Standards of Performance for Incinerators.
- 301.7 **Subpart Ea**—Standards of Performance for Municipal Waste Combustors for which Construction is Commenced after December 20, 1989 and on or before September 20, 1994.
- 301.8 **Subpart Eb**—Standards of Performance for Large Municipal Waste Combustors for which Construction is Commenced after September 20, 1994 or for which Modification or Reconstruction is Commenced after June 19, 1996.
- 301.9 **Subpart Ec**—Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for which Construction is Commenced after June 20, 1996.
- 301.10 **Subpart F**—(Reserved per A.R.S. § 49-402)
- 301.11 **Subpart G**—Standards of Performance for Nitric Acid Plants.



- 301.12 Subpart Ga**—Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011.
- 301.13 Subpart H**—Standards of Performance for Sulfuric Acid Plants.
- 301.14 Subpart I**—Standards of Performance for Hot Mix Asphalt Facilities.
- 301.15 Subpart J**—(Reserved per A.R.S. § 49-402)
- 301.16 Subpart Ja**—(Reserved per A.R.S. § 49-402)
- 301.17 Subpart K**—Standards of Performance for Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced after June 11, 1973, and prior to May 19, 1978.
- 301.18 Subpart Ka**—Standards of Performance for Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced after May 18, 1978, and prior to July 23, 1984.
- 301.19 Subpart Kb**—Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984.
- 301.20 Subpart L**—(Reserved per A.R.S. § 49-402)
- 301.21 Subpart M**—Standards of Performance for Secondary Brass and Bronze Production Plants.
- 301.22 Subpart N**—Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for which Construction Commenced after June 11, 1973.
- 301.23 Subpart Na**—Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which Construction Commenced after January 20, 1983.
- 301.24 Subpart O**—Standards of Performance for Sewage Treatment Plants.
- 301.25 Subpart P**—(Reserved per A.R.S. § 49-402)
- 301.26 Subpart Q**—(Reserved per A.R.S. § 49-402)
- 301.27 Subpart R**—(Reserved per A.R.S. § 49-402)
- 301.28 Subpart S**—Standards of Performance for Primary Aluminum Reduction Plants.
- 301.29 Subpart T**—Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
- 301.30 Subpart U**—Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
- 301.31 Subpart V**—Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
- 301.32 Subpart W**—Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.
- 301.33 Subpart X**—Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
- 301.34 Subpart Y**—Standards of Performance for Coal Preparation and Processing Plants.
- 301.35 Subpart Z**—Standards of Performance for Ferroalloy Production Facilities.
- 301.36 Subpart AA**—Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed after October 21, 1974, and on or before August 17, 1983.



- 301.37 **Subpart AAa**—Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983.
- 301.38 **Subpart BB**—Standards of Performance for Kraft Pulp Mills.
- 301.39 **Subpart BBa**—Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013.
- 301.40 **Subpart CC**—Standards of Performance for Glass Manufacturing Plants.
- 301.41 **Subpart DD**—Standards of Performance for Grain Elevators.
- 301.42 **Subpart EE**—Standards of Performance for Surface Coating of Metal Furniture.
- 301.43 **Subpart FF**—(Reserved)
- 301.44 **Subpart GG**—Standards of Performance for Stationary Gas Turbines.
- 301.45 **Subpart HH**—Standards of Performance for Lime Manufacturing Plants.
- 301.46 **Subpart II**—(Reserved)
- 301.47 **Subpart JJ**—(Reserved)
- 301.48 **Subpart KK**—Standards of Performance for Lead-Acid Battery Manufacturing Plants.
- 301.49 **Subpart LL**—Standards of Performance for Metallic Mineral Processing Plants.
- 301.50 **Subpart MM**—Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.
- 301.51 **Subpart NN**—Standards of Performance for Phosphate Rock Plants.
- 301.52 **Subpart OO**—(Reserved)
- 301.53 **Subpart PP**—Standards of Performance for Ammonium Sulfate Manufacture.
- 301.54 **Subpart QQ**—Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.
- 301.55 **Subpart RR**—Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
- 301.56 **Subpart SS**—Standards of Performance for Industrial Surface Coating: Large Appliances.
- 301.57 **Subpart TT**—Standards of Performance for Metal Coil Surface Coating.
- 301.58 **Subpart UU**—Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
- 301.59 **Subpart VV**—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced after January 5, 1981, and on or before November 7, 2006.
- 301.60 **Subpart VVa**—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced after November 7, 2006.
- 301.61 **Subpart WW**—Standards of Performance for the Beverage Can Surface Coating Industry.
- 301.62 **Subpart XX**—Standards of Performance for Bulk Gasoline Terminals.



- 301.63 Subpart YY—(Reserved)
- 301.64 Subpart ZZ—(Reserved)
- 301.65 Subpart AAA—Standards of Performance for New Residential Wood Heaters.
- 301.66 Subpart BBB—Standards of Performance for the Rubber Tire Manufacturing Industry.
- 301.67 Subpart CCC—(Reserved)
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- 301.69 Subpart EEE—(Reserved)
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- 301.71 Subpart GGG—(Reserved per A.R.S. § 49-402)
- 301.72 Subpart GGGa—(Reserved per A.R.S. § 49-402)
- 301.73 Subpart HHH—Standards of Performance for Synthetic Fiber Production Facilities.
- 301.74 Subpart III—Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
- 301.75 Subpart JJJ—Standards of Performance for Petroleum Dry Cleaners.
- 301.76 Subpart KKK—Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
- 301.77 Subpart LLL—Standards of Performance for Onshore Natural Gas Processing: SO<sub>2</sub> Emissions.
- 301.78 Subpart MMM—(Reserved)
- 301.79 Subpart NNN—Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
- 301.80 Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.
- 301.81 Subpart PPP—Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants.
- 301.82 Subpart QQQ—(Reserved per A.R.S. § 49-402)
- 301.83 Subpart RRR—Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
- 301.84 Subpart SSS—Standards of Performance for Magnetic Tape Coating Facilities.
- 301.85 Subpart TTT—Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
- 301.86 Subpart UUU—Standards of Performance for Calciners and Dryers in Mineral Industries.
- 301.87 Subpart VVV—Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.
- 301.88 Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills.



- 301.89 ~~Subpart XXX~~—(Reserved) Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014.
- 301.90 ~~Subpart YYY~~—(Reserved)
- 301.91 ~~Subpart ZZZ~~—(Reserved)
- 301.92 ~~Subpart AAAA~~—Standards of Performance for Small Municipal Waste Combustion Units for which Construction is Commenced after August 30, 1999 or for which Modification or Reconstruction is Commenced after June 6, 2001.
- 301.93 ~~Subpart CCCC~~—Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for which Construction is Commenced after November 30, 1999 or for which Modification or Reconstruction is Commenced on or after June 1, 2001.
- 301.94 ~~Subpart EEEE~~—Standards of Performance for Other Solid Waste Incineration Units for which Construction is Commenced after December 9, 2004, or for which Modification or Reconstruction is Commenced on or after June 16, 2006.
- 301.95 ~~Subpart GGGG~~—(Reserved)
- 301.96 ~~Subpart HHHH~~—(Reserved)
- 301.97 ~~Subpart IIII~~—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines.
- 301.98 ~~Subpart JJJJ~~—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.
- 301.99 ~~Subpart KKKK~~—Standards of Performance for Stationary Combustion Turbines.
- 301.100 ~~Subpart LLLL~~—Standards of Performance for New Sewage Sludge Incineration Units.
- 301.101 ~~Subpart NNNN~~—(Reserved)
- 301.102 ~~Subpart OOOO~~—Standards for Crude Oil and Natural Gas Production, Transmission and Distribution.
- 301.103 ~~Subpart OOOOa~~—Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After September 18, 2015.
- ~~301.103~~ 301.104 ~~Subpart PPPP~~—(Reserved)
- ~~301.104~~ 301.105 ~~Subpart QQQQ~~—Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces.
- ~~301.105~~ 301.106 ~~Subpart RRRR~~—(Reserved)
- ~~301.106~~ 301.107 ~~Subpart SSSS~~—(Reserved)
- ~~301.107~~ 301.108 ~~Subpart TTTT~~—Standards of Performance for Greenhouse Gas Emissions for Electric Generating Units.

302 **ADDITIONAL REQUIREMENTS:** From the general standards identified in Section 301 of this rule, delete 40 CFR 60.4, §60.5, and §60.6. All requests, reports, applications, submittals, and other communications to the Control Officer pursuant to this rule shall be submitted to the Maricopa County Air Quality Department, 1001 N. Central Ave., Suite 125, Phoenix, AZ, 85004.

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**



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

**RULE 370  
FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM**

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Revised 07/13/1988; Revised 04/06/1992; Repealed and Adopted 11/15/1993; Revised 11/20/1996; Revised 05/14/1997; Revised 05/20/1998; Revised 08/19/1998; Revised 03/01/2000; Revised 03/07/2001; Revised 11/19/2003; Revised 03/15/2006; Revised 12/17/2008; Revised 09/16/2009; Revised 07/07/2010; Revised 08/17/2011; Revised 07/25/2012; Revised 03/26/2014; Revised 11/05/2014; Revised 11/18/2015; Revised 11/02/2016; ~~and~~ Revised 12/13/2017; and Revised MM/DD/YYYY.

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

**RULE 370  
FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM**

**SECTION 100 – GENERAL**

- 101 PURPOSE:** To establish emission standards for federally listed hazardous air pollutants.
- 102 APPLICABILITY:** The provisions of this rule apply to the owner or operator of any stationary source for which a standard is prescribed under this rule, and for which federal delegation of the implementation and enforcement of the standards to the Maricopa County Air Quality Department (~~“department”~~) (department) has been accomplished. Any such stationary source must also comply with other Maricopa County Air Pollution Control Regulations.
- 103 AVAILABILITY OF INFORMATION:** Copies of all 40 CFR, Part 61 and Part 63 revisions currently enforced by the department are available as listed:
- a. Maricopa County Air Quality Department, 1001 N. Central Ave, Suite 125, Phoenix, AZ, 85004.
  - b. Maricopa County Rules are available electronically at <https://www.maricopa.gov/1951/Adopted-Rules>
  - c. EPA documents are available electronically at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>
  - d. ASTM standards are available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428, or from its website at [www.astm.org](http://www.astm.org)
- 104 FEDERAL DELEGATION AUTHORITY:** The department shall enforce the national emission standards for hazardous air pollutants (NESHAPs) (40 CFR 61 and 40 CFR 63) listed in Section 300 of this rule which have been delegated to the County by the United States Environmental Protection Agency (EPA) for such enforcement. The department in addition, may enforce such other NESHAPs as delegated for such enforcement by the EPA to the County.

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

- 201 ADMINISTRATOR:** As used in Parts 61 and 63, Title 40, Code of Federal Regulations, shall mean the Control Officer, except that the Control Officer shall not be empowered to approve alternate or equivalent test methods, alternative standards/work practices, or other nondelegable authorities, except as specifically provided in each subpart.
- 202 AMENDED WATER:** Water to which surfactant (wetting agent) has been added to increase the ability of the liquid to penetrate asbestos-containing material (ACM).
- 203 EXISTING SOURCE:** Any stationary source other than a new source.
- 204 FEDERALLY LISTED HAZARDOUS AIR POLLUTANT:** Any air pollutant listed pursuant to Section 112(b) of the Act.
- 205 GOVERNMENT-ISSUED PHOTO IDENTIFICATION CARD:** Includes, but is not limited to, a valid driver's license, a valid non-operating identification license, a valid tribal enrollment card or tribal identification card, or other valid government issued photo identification that includes the name, address, and photograph of the card holder.
- 206 HAZARDOUS AIR POLLUTANT:** Any air pollutant regulated under Section 112 of the Act, any air pollutant subject to NESHAP, or any air pollutant designated by the Director as a hazardous air pollutant pursuant to A.R.S. § 49-426.04.



- 207 **MAJOR SOURCE:** A stationary source or group of stationary sources located within a contiguous area, and under common control, and that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any federally listed hazardous air pollutant or 25 tons per year or more of any combination of federally listed hazardous air pollutants. A lesser quantity or, in the case of radionuclides, a different criteria may be established by the Administrator pursuant to Section 112 of the Act and may be adopted by the Board of Supervisors by rule.
- 208 **MODIFICATION:** Any physical change in, or change in the method of operation of a major source which increases the actual emissions of any federally listed hazardous air pollutant emitted by such source by more than a de minimis amount, or which results in the emission of any federally listed hazardous air pollutant, not previously emitted by more than a de minimis amount.
- 209 **NESHAP:** National emission standards for hazardous air pollutants pursuant to 40 CFR Part 61 and Part 63.
- 210 **NEW SOURCE:** A stationary source, the construction or reconstruction of which commences after the Administrator first proposes regulations under Section 112 of the Act establishing an emission standard applicable to such source.
- 211 **STATIONARY SOURCE:** Any building, structure, facility, or installation which emits or may emit any air pollutant.

### SECTION 300 – STANDARDS

- 301 **STANDARDS OF PERFORMANCE FOR FEDERALLY LISTED HAZARDOUS AIR POLLUTANTS:** The federally listed hazardous air pollutants as listed in TABLE 370-1. FEDERAL LIST OF HAZARDOUS AIR POLLUTANTS of this rule and the following federal regulations located in the U.S. Code of Federal Regulations, Part 61 of Title 40, Subchapter C (CFR) as codified on ~~July 1, 2017~~ July 1, 2018, are herein incorporated by reference with the listed exclusions, in Maricopa County's Air Pollution Control Regulations. This incorporation by reference includes no future editions or amendments. Each owner or operator subject to the requirements of the following subparts shall comply with the requirements of those subparts and the additional requirements set forth herein. Incorporation by reference does not include nondelegable functions of the EPA Administrator.
- 301.1 **Subpart A—**General Provisions; exclude any sections dealing with equivalency determinations that are nontransferable through Section 112(e)(3) of the Act.
- 301.2 **Subpart C—**National Emission Standard for Beryllium.
- 301.3 **Subpart D—**National Emission Standard for Beryllium Rocket Motor Firing.
- 301.4 **Subpart E—**National Emission Standard for Mercury.
- 301.5 **Subpart F—**National Emission Standard for Vinyl Chloride.
- 301.6 **Subpart G—**(Reserved)-
- 301.7 **Subpart J—**National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene.
- 301.8 **Subpart L—**National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants.
- 301.9 **Subpart M—**National Emission Standard for Asbestos.
- a. Each owner or operator of a demolition activity or renovation activity involving a facility as defined in 40 CFR 61, Subpart M shall:
- (1) Fully comply with all requirements of 40 CFR 61, Subpart M.
  - (2) Thoroughly inspect the facility within 12 months of commencement of demolition or renovation activity for the presence of asbestos, including Category I and Category II nonfriable ACM. Include the date of this inspection on the written notification.

- (3) Provide the Control Officer with written notification of intention to demolish or to renovate in the manner described in 40 CFR 61.145.
  - (4) Update all notifications in accordance with 40 CFR 61.145(b). For renovations described in 40 CFR 61.145(a)(4)(iii), notifications shall expire every December 31, with new notices required at least 10 working days before the end of the calendar year preceding the year for which notice is being given. All other notifications shall expire one year from either the original postmark date or commercial delivery date or date of hand delivery to the Control Officer. For a demolition activity or renovation activity that continues beyond the expiration date, the owner or operator of the demolition or renovation activity shall notify the Control Officer in accordance with 40 CFR 61.145(b) at least 10 working days prior to the expiration of the original notice and pay all applicable fees prescribed by Rule 280 of these rules.
  - (5) Pay all applicable fees prescribed by Rule 280 of these rules.
- b. In addition, each owner or operator of a demolition activity or renovation activity shall comply with the following requirements:
- (1) Certification, training, and record keeping requirements:
    - (a) All facilities scheduled for demolition or renovation shall be inspected by a currently certified Asbestos Hazard Emergency Response Act (AHERA) accredited asbestos building inspector (herein referenced as inspector), as required by either AHERA or the Asbestos School Hazard Abatement Reauthorization Act (ASHARA).
    - (b) Each owner and operator of a facility shall maintain a copy of any reports of inspections made for a facility for two years from completion of project, including laboratory test results of samples collected. A copy of the inspection reports and laboratory test results shall be on-site and available for inspection at the facility, upon request of the department, during all demolition and renovation (asbestos setup, removal, handling, collecting, containerizing, cleanup and dismantling) activities.
    - (c) All asbestos workers shall maintain current AHERA worker certification. All asbestos contractor/supervisors shall maintain current AHERA/ASHARA contractor/supervisor certification and shall be on-site at all times during any active asbestos abatement work at or above NESHAP threshold amounts. A legible copy of all asbestos workers and contractor/supervisor's current training certificates from an EPA accredited training provider shall be available for inspection at all times at the demolition or renovation site.
    - (d) All asbestos workers and contractor/supervisors shall have color photo identification on-site and available for inspection, upon request of the department, at all times during asbestos setup, removal, handling, collecting, containerizing, cleanup and dismantling. The color photo identification shall be from an EPA accredited training provider verifying the certification requirements in section (b)(1)(c), or a current government-issued photo identification card.
  - (2) Asbestos renovation and demolition standards:
    - (a) A facility owner or operator shall not create visible dust emissions when removing or transporting to the disposal site Category I nonfriable asbestos-containing material (ACM) and Category II nonfriable ACM that remain nonfriable Category I ACM and nonfriable Category II ACM.
    - (b) Inspection viewing devices at facilities are required at all asbestos renovation projects where regulated asbestos-containing material (RACM) is being abated, except for roofing projects involving Category I nonfriable ACM and Category II nonfriable ACM exclusively. Viewing devices shall be so designed as to allow an inspector to view the facility from the outside, either through ports or by video monitoring.
    - (c) All exposed RACM subject to cutting or dismantling operations and all RACM being removed from a facility or a facility component shall be kept adequately wet by using amended water to control the release



of asbestos fibers. The use of amended water will not be required in the case of an ordered demolition, as defined in 40 CFR 61.145(a)(3), where the debris is suspected to contain or is known to contain ACM, however ordered demolitions are subject to 40 CFR 61.145(c)(9). Specific exemptions are listed under 40 CFR 61.145(c)(3)(i)(A), 40 CFR 61.145(c)(3)(ii) and/or 40 CFR 61.145(c)(7)(i). To claim these exemptions, the owner or operator shall follow the requirements of 40 CFR 61.145(c)(3)(i)(B), 40 CFR 61.145(c)(3)(iii) and/or 61.145(c)(7)(ii) and (iii).

- (d) All RACM shall be contained in transparent, leak-tight wrapping and shall remain adequately wet to prevent dust emissions during removal, transport, storage, and proper landfill disposal following local, county, state, and federal regulations. Affix a visible and legible label to each individual wrapping with the name of the site owner or operator and the name and address of the location that generated the RACM.

**301.10 Subpart N**—National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.

**301.11 Subpart O**—(Reserved per A.R.S. § 49-402)

**301.12 Subpart P**—National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

**301.13 Subpart S**—(Reserved)

**301.14 Subpart U**—(Reserved)

**301.15 Subpart V**—National Emission Standard for Equipment Leaks (Fugitive Emission Sources).

**301.16 Subpart X**—(Reserved)

**301.17 Subpart Y**—National Emission Standard for Benzene Emissions from Benzene Storage Vessels.

**301.18 Subpart Z**—(Reserved)

**301.19 Subpart AA**—(Reserved)

**301.20 Subpart BB**—National Emission Standard for Benzene Emissions from Benzene Transfer Operations.

**301.21 Subpart CC**—(Reserved)

**301.22 Subpart DD**—(Reserved)

**301.23 Subpart EE**—(Reserved)

**301.24 Subpart FF**—National Emission Standard for Benzene Waste Operations.

**302 STANDARDS OF PERFORMANCE FOR FEDERALLY LISTED HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES:** The federally listed hazardous air pollutants as listed in TABLE 370-1. FEDERAL LIST OF HAZARDOUS AIR POLLUTANTS of this rule and the following federal regulations located in the U.S. Code of Federal Regulations, Part 63 of Title 40, Subchapter C (CFR), as codified on ~~July 1, 2017~~ July 1, 2018, are herein incorporated by reference with the listed exclusions, in Maricopa County's Air Pollution Control Regulations. This incorporation by reference includes no future editions or amendments. Each owner or operator subject to the requirements of the following subparts shall comply with the requirements of those subparts and the additional requirements set forth herein. Incorporation by reference does not include nondelegable functions of the EPA Administrator.

**302.1 Subpart A**—General Provisions.

**302.2 Subpart F**—National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.



- 302.3 **Subpart G**—National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
- 302.4 **Subpart H**—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
- 302.5 **Subpart I**—National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
- 302.6 **Subpart J**—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.
- 302.7 **Subpart K**—(Reserved)
- 302.8 **Subpart L**—National Emission Standards for Coke Oven Batteries.
- 302.9 **Subpart M**—National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
- 302.10 **Subpart N**—National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
- 302.11 **Subpart O**—Ethylene Oxide Emissions Standards for Sterilization Facilities.
- 302.12 **Subpart P**—(Reserved):
- 302.13 **Subpart Q**—National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
- 302.14 **Subpart R**—National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
- 302.15 **Subpart S**—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
- 302.16 **Subpart T**—National Emission Standards for Halogenated Solvent Cleaning.
- 302.17 **Subpart U**—National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
- 302.18 **Subpart V**—(Reserved):
- 302.19 **Subpart W**—National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
- 302.20 **Subpart X**—(Reserved per A.R.S. § 49-402):
- 302.21 **Subpart Z**—(Reserved):
- 302.22 **Subpart AA**—National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants.
- 302.23 **Subpart BB**—National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants.
- 302.24 **Subpart CC**—(Reserved per A.R.S. § 49-402):
- 302.25 **Subpart DD**—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
- 302.26 **Subpart EE**—National Emission Standards for Magnetic Tape Manufacturing Operations.
- 302.27 **Subpart FF**—(Reserved):
- 302.28 **Subpart GG**—National Emission Standards for Aerospace Manufacturing and Rework Facilities.



- 302.29 **Subpart HH**—National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities.
- 302.30 **Subpart JJ**—National Emission Standards for Wood Furniture Manufacturing Operations.
- 302.31 **Subpart KK**—National Emission Standards for the Printing and Publishing Industry.
- 302.32 **Subpart LL**—National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.
- 302.33 **Subpart MM**—National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills.
- 302.34 **Subpart NN**—National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing at Area Sources.
- 302.35 **Subpart OO**—National Emission Standards for Tanks – Level 1.
- 302.36 **Subpart PP**—National Emission Standards for Containers.
- 302.37 **Subpart QQ**—National Emission Standards for Surface Impoundments.
- 302.38 **Subpart RR**—National Emission Standards for Individual Drain Systems.
- 302.39 **Subpart SS**—National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.
- 302.40 **Subpart TT**—National Emission Standards for Equipment Leaks – Control Level 1.
- 302.41 **Subpart UU**—National Emission Standards for Equipment Leaks – Control Level 2 Standards.
- 302.42 **Subpart VV**—National Emission Standards for Oil-Water Separators and Organic-Water Separators.
- 302.43 **Subpart WW**—National Emission Standards for Storage Vessels (Tanks) – Control Level 2.
- 302.44 **Subpart XX**—National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.
- 302.45 **Subpart YY**—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.
- 302.46 **Subpart ZZ**—(Reserved):
- 302.47 **Subpart AAA**—(Reserved):
- 302.48 **Subpart BBB**—(Reserved):
- 302.49 **Subpart CCC**—National Emission Standards for Hazardous Air Pollutants for Steel Pickling – HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
- 302.50 **Subpart DDD**—National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
- 302.51 **Subpart EEE**—National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
- 302.52 **Subpart FFF**—(Reserved):
- 302.53 **Subpart GGG**—National Emission Standards for Pharmaceuticals Production.



- 302.54 **Subpart HHH**—National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities.
- 302.55 **Subpart III**—National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
- 302.56 **Subpart JJJ**—National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
- 302.57 **Subpart KKK**—(Reserved)-
- 302.58 **Subpart LLL**—(Reserved per A.R.S. § 49-402)-
- 302.59 **Subpart MMM**—National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
- 302.60 **Subpart NNN**—National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
- 302.61 **Subpart OOO**—National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins.
- 302.62 **Subpart PPP**—National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production.
- 302.63 **Subpart QQQ**—(Reserved per A.R.S. § 49-402)-
- 302.64 **Subpart RRR**—National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
- 302.65 **Subpart SSS**—(Reserved)-
- 302.66 **Subpart TTT**—(Reserved per A.R.S. § 49-402)-
- 302.67 **Subpart UUU**—(Reserved per A.R.S. § 49-402)-
- 302.68 **Subpart VVV**—National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
- 302.69 **Subpart WWW**—(Reserved)-
- 302.70 **Subpart XXX**—National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.
- 302.71 **Subpart YYY**—(Reserved)-
- 302.72 **Subpart ZZZ**—(Reserved)-
- 302.73 **Subpart AAAA**—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.
- 302.74 **Subpart BBBB**—(Reserved)-
- 302.75 **Subpart CCCC**—National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast.
- 302.76 **Subpart DDDD**—National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.
- 302.77 **Subpart EEEE**—National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline).
- 302.78 **Subpart FFFF**—National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.
- 302.79 **Subpart GGGG**—National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.



- 302.80 **Subpart HHHH**—National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.
- 302.81 **Subpart IIII**—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks.
- 302.82 **Subpart JJJJ**—National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.
- 302.83 **Subpart KKKK**—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.
- 302.84 **Subpart LLLL**—(Reserved)
- 302.85 **Subpart MMMM**—National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
- 302.86 **Subpart NNNN**—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.
- 302.87 **Subpart OOOO**—National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.
- 302.88 **Subpart PPPP**—National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.
- 302.89 **Subpart QQQQ**—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.
- 302.90 **Subpart RRRR**—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.
- 302.91 **Subpart SSSS**—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
- 302.92 **Subpart TTTT**—National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations.
- 302.93 **Subpart UUUU**—National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing.
- 302.94 **Subpart VVVV**—National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
- 302.95 **Subpart WWWW**—National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
- 302.96 **Subpart XXXX**—National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.
- 302.97 **Subpart YYYYY**—National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.
- 302.98 **Subpart ZZZZ**—National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.
- 302.99 **Subpart AAAAA**—National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
- 302.100 **Subpart BBBBB**—National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
- 302.101 **Subpart CCCCC**—National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
- 302.102 **Subpart DDDDD**—National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters.
- 302.103 **Subpart EEEEE**—National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.

- 302.104 **Subpart FFFFF**—National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities.
- 302.105 **Subpart GGGGG**—National Emission Standards for Hazardous Air Pollutants: Site Remediation.
- 302.106 **Subpart HHHHH**—National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.
- 302.107 **Subpart IIIII**—National Emission Standards for Hazardous Air Pollutants: Mercury Emissions from Mercury Cell Chlor-Alkali Plants.
- 302.108 **Subpart JJJJJ**—National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.
- 302.109 **Subpart KKKKK**—National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.
- 302.110 **Subpart LLLLL**—National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.
- 302.111 **Subpart MMMMM**—National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.
- 302.112 **Subpart NNNNN**—National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.
- 302.113 **Subpart OOOOO**—(Reserved):
- 302.114 **Subpart PTTTT**—National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Standards.
- 302.115 **Subpart QQQQQ**—National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
- 302.116 **Subpart RRRRR**—National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.
- 302.117 **Subpart SSSSS**—National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.
- 302.118 **Subpart TTTTT**—National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.
- 302.119 **Subpart UUUUU**—(Reserved per A.R.S. § 49-402):
- 302.120 **Subpart VVVVV**—(Reserved):
- 302.121 **Subpart WWWW**—National Emission Standards for Hospital Ethylene Oxide Sterilizers.
- 302.122 **Subpart XXXXX**—(Reserved):
- 302.123 **Subpart YYYYY**—National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.
- 302.124 **Subpart ZZZZZ**—National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.
- 302.125 **Subpart AAAAAA**—(Reserved)
- 302.126 **Subpart BBBBBB**—National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.
- 302.127 **Subpart CCCCCC**—National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.



- 302.128 **Subpart DDDDDD**—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.
- 302.129 **Subpart EEEEEEE**—(Reserved per A.R.S. § 49-402):
- 302.130 **Subpart FFFFFFF**—(Reserved per A.R.S. § 49-402):
- 302.131 **Subpart GGGGGG**—National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources--Zinc, Cadmium, and Beryllium.
- 302.132 **Subpart HHHHHH**—National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources.
- 302.133 **Subpart IIIIII**—(Reserved):
- 302.134 **Subpart JJJJJJ**—National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers.
- 302.135 **Subpart KKKKKK**—(Reserved):
- 302.136 **Subpart LLLLLL**—National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.
- 302.137 **Subpart MMMMMM**—National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.
- 302.138 **Subpart NNNNNN**—National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.
- 302.139 **Subpart OOOOOO**—National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.
- 302.140 **Subpart PPPPPP**—National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area.
- 302.141 **Subpart QQQQQQ**—National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.
- 302.142 **Subpart RRRRRR**—National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.
- 302.143 **Subpart SSSSSS**—National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.
- 302.144 **Subpart TTTTTT**—National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.
- 302.145 **Subpart UUUUUU**—(Reserved)
- 302.146 **Subpart VVVVVV**—National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources
- 302.147 **Subpart WWWWWW**—National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.
- 302.148 **Subpart XXXXXX**—National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.

- 302.149 Subpart YYYYYY**—National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities.
- 302.150 Subpart ZZZZZZ**—National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries.
- 302.151 Subpart AAAAAA**—National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing.
- 302.152 Subpart BBBB**—National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry.
- 302.153 Subpart CCCCCC**—National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.
- 302.154 Subpart DDDDDD**—National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing.
- 302.155 Subpart EEEEE**—National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category.
- 302.156 Subpart FFFFFFF**—(Reserved)-
- 302.157 Subpart GGGGGG**—(Reserved)-
- 302.158 Subpart HHHHHH**—National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production.

**303 ADDITIONAL REQUIREMENTS:**

- 303.1** From the general standards identified in Section 301 of this rule, delete 40 CFR 61.04. All requests, reports, applications, submittals, and other communications to the Control Officer pursuant to this rule shall be submitted to the Maricopa County Air Quality Department, 1001 N. Central Ave., Suite 125, Phoenix, AZ, 85004.
- 303.2** Where the Act has established provisions, including specific schedules, for the regulation of source categories pursuant to Sections 112(e)(5) and 112(n) of the Act, the Control Officer may enforce those provisions.
- 303.3** For any category or subcategory of sources licensed by the U.S. Nuclear Regulatory Commission, the Board of Supervisors shall not adopt and the Control Officer shall not enforce any standard or limitation respecting emissions of radionuclides which is more stringent than the standard or limitation adopted by the Administrator pursuant to Section 112 of the Act.
- 303.4** If the Administrator finds by rule that regulation is not appropriate or necessary or that alternative control strategies should be applied, the Control Officer shall administer and enforce this rule based on the Administrator's findings.

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS**

- 401 CONTROL TECHNOLOGY DETERMINATIONS FOR MAJOR SOURCES IN ACCORDANCE WITH CLEAN AIR ACT SECTIONS, SECTIONS 112(g) AND 112(j):** 40 CFR 63.40 through 40 CFR 63.44 and 40 CFR 63.50 through 40 CFR 63.56 are adopted by reference as of ~~July 1, 2017~~ July 1, 2018.
- 402 COMPLIANCE EXTENSIONS FOR EARLY REDUCTION OF FEDERALLY LISTED HAZARDOUS AIR POLLUTANTS:** 40 CFR 63.70 through 40 CFR 63.81 and Table 370.1 are adopted by reference as of ~~July 1, 2017~~ July 1, 2018.

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**



TABLE 370-1. FEDERAL LIST OF HAZARDOUS AIR POLLUTANTS

A. All of the following are federally listed hazardous air pollutants:

CAS No.	Chemical Name
75-07-0	Acetaldehyde
60-35-5	Acetamide
75-05-8	Acetonitrile
98-86-2	Acetophenone
53-96-3	2-Acetylaminofluorene
107-02-8	Acrolein
79-06-1	Acrylamide
79-10-7	Acrylic acid
107-13-1	Acrylonitrile
107-05-1	Allyl chloride
92-67-1	4-Aminobiphenyl
62-53-3	Aniline
90-04-0	o-Anisidine
1332-21-4	Asbestos
71-43-2	Benzene (including benzene from gasoline)
92-87-5	Benzidine
98-07-7	Benzotrichloride
100-44-7	Benzyl chloride
92-52-4	Biphenyl
117-81-7	Bis(2-ethylhexyl)phthalate (DEHP)
542-88-1	Bis(chloromethyl)ether
75-25-2	Bromoform
106-99-0	1,3-Butadiene
156-62-7	Calcium cyanamide
133-06-2	Captan
63-25-2	Carbaryl
75-15-0	Carbon disulfide
56-23-5	Carbon tetrachloride
463-58-1	Carbonyl sulfide
120-80-9	Catechol
133-90-4	Chloramben
57-74-9	Chlordane
7782-50-5	Chlorine
79-11-8	Chloroacetic acid
532-27-4	2-Chloroacetophenone
108-90-7	Chlorobenzene
510-15-6	Chlorobenzilate
67-66-3	Chloroform
107-30-2	Chloromethyl methyl ether
126-99-8	Chloroprene
1319-77-3	Cresols/Cresylic acid (isomers and mixture)
95-48-7	o-Cresol
108-39-4	m-Cresol
106-44-5	p-Cresol
98-82-8	Cumene
94-75-7	2,4-D, salts and esters
3547-04-4	DDE
334-88-3	Diazomethane
132-64-9	Dibenzofurans
96-12-8	1,2-Dibromo-3-chloropropane
84-74-2	Dibutylphthalate
106-46-7	1,4-Dichlorobenzene(p)
91-94-1	3,3-Dichlorobenzidene
111-44-4	Dichloroethyl ether (Bis(2-chloroethyl)ether)
542-75-6	1,3-Dichloropropene
62-73-7	Dichlorvos
111-42-2	Diethanolamine
121-69-7	N,N-Diethyl aniline (N,N-Dimethylaniline)
64-67-5	Diethyl sulfate
119-90-4	3,3-Dimethoxybenzidine

60-11-7	Dimethyl aminoazobenzene
119-93-7	3,3'-Dimethyl benzidine
<b>CAS No.</b>	<b>Chemical Name</b>
79-44-7	Dimethyl carbamoyl chloride
68-12-2	Dimethyl formamide
57-14-7	1,1-Dimethyl hydrazine
131-11-3	Dimethyl phthalate
77-78-1	Dimethyl sulfate
534-52-1	4,6-Dinitro-o-cresol, and salts
51-28-5	2,4-Dinitrophenol
121-14-2	2,4-Dinitrotoluene
123-91-1	1,4-Dioxane (1,4-Diethyleneoxide)
122-66-7	1,2-Diphenylhydrazine
106-89-8	Epichlorohydrin (1-Chloro-2,3-epoxypropane)
106-88-7	1,2-Epoxybutane
140-88-5	Ethyl acrylate
100-41-4	Ethyl benzene
51-79-6	Ethyl carbamate (Urethane)
75-00-3	Ethyl chloride (Chloroethane)
106-93-4	Ethylene dibromide (Dibromoethane)
107-06-2	Ethylene dichloride (1,2-Dichloroethane)
107-21-1	Ethylene glycol
151-56-4	Ethylene imine (Aziridine)
75-21-8	Ethylene oxide
96-45-7	Ethylene thiourea
75-34-3	Ethylidene dichloride (1,1-Dichloroethane)
50-00-0	Formaldehyde
76-44-8	Heptachlor
118-74-1	Hexachlorobenzene
87-68-3	Hexachlorobutadiene
77-47-4	Hexachlorocyclopentadiene
67-72-1	Hexachloroethane
822-06-0	Hexamethylene-1,6-diisocyanate
680-31-9	Hexamethylphosphoramide
110-54-3	Hexane
302-01-2	Hydrazine
7647-01-0	Hydrochloric acid
7664-39-3	Hydrogen fluoride (Hydrofluoric acid)
123-31-9	Hydroquinone
78-59-1	Isophorone
58-89-9	Lindane (all isomers)
108-31-6	Maleic anhydride
67-56-1	Methanol
72-43-5	Methoxychlor
74-83-9	Methyl bromide (Bromomethane)
74-87-3	Methyl chloride (Chloromethane)
71-55-6	Methyl chloroform (1,1,1-Trichloroethane)
60-34-4	Methyl hydrazine
74-88-4	Methyl iodide (Iodomethane)
108-10-1	Methyl isobutyl ketone (Hexone)
624-83-9	Methyl isocyanate
80-62-6	Methyl methacrylate
1634-04-4	Methyl tert butyl ether
101-14-4	4,4-Methylene bis (2-chloroaniline)
75-09-2	Methylene chloride (Dichloromethane)
101-68-8	Methylene diphenyl diisocyanate (MDI)
101-77-9	4,4'-Methylenedianiline
91-20-3	Naphthalene
98-95-3	Nitrobenzene
92-93-3	4-Nitrobiphenyl
100-02-7	4-Nitrophenol
79-46-9	2-Nitropropane
684-93-5	N-Nitroso-N-methylurea
62-75-9	N-Nitrosodimethylamine
59-89-2	N-Nitrosomorpholine



56-38-2	Parathion
82-68-8	Pentachloronitrobenzene (Quintobenzene)
<b>CAS No.</b>	<b>Chemical Name</b>
87-86-5	Pentachlorophenol
108-95-2	Phenol
106-50-3	p-Phenylenediamine
75-44-5	Phosgene
7803-51-2	Phosphine
7723-14-0	Phosphorus
85-44-9	Phthalic anhydride
1336-36-3	Polychlorinated biphenyls (Aroclors)
1120-71-4	1,3-Propane sultone
57-57-8	beta-Propiolactone
123-38-6	Propionaldehyde
114-26-1	Propoxur (Baygon)
78-87-5	Propylene dichloride (1,2-Dichloropropane)
75-56-9	Propylene oxide
75-55-8	1,2-Propylenimine (2-Methylaziridine)
91-22-5	Quinoline
106-51-4	Quinone
100-42-5	Styrene
96-09-3	Styrene oxide
1746-01-6	2,3,7,8-Tetrachlorodibenzo-p-dioxin
79-34-5	1,1,2,2-Tetrachloroethane
127-18-4	Tetrachloroethylene (Perchloroethylene)
7550-45-0	Titanium tetrachloride
108-88-3	Toluene
95-80-7	2,4-Toluene diamine
584-84-9	2,4-Toluene diisocyanate
95-53-4	o-Toluidine
8001-35-2	Toxaphene (chlorinated camphene)
120-82-1	1,2,4-Trichlorobenzene
79-00-5	1,1,2-Trichloroethane
79-01-6	Trichloroethylene
95-95-4	2,4,5-Trichlorophenol
88-06-2	2,4,6-Trichlorophenol
121-44-8	Triethylamine
1582-09-8	Trifluralin
540-84-1	2,2,4-Trimethylpentane
108-05-4	Vinyl acetate
593-60-2	Vinyl bromide
75-01-4	Vinyl chloride
75-35-4	Vinylidene chloride (1,1-Dichloroethylene)
1330-20-7	Xylenes (isomers and mixture)
95-47-6	o-Xylenes
108-38-3	m-Xylenes
106-42-3	p-Xylenes
0	Antimony Compounds
0	Arsenic Compounds inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide Compounds <sup>[1]</sup>
0	Glycol ethers <sup>[2]</sup>
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Fine mineral fibers <sup>[3]</sup>
0	Nickel Compounds
0	Polycyclic Organic Matter <sup>[4]</sup>

- 0 Radionuclides (including radon)<sup>[5]</sup>  
0 Selenium Compounds

**B.** The following applies for all listings above which contain the word “compounds” or are glycol ethers: unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

- [1] X'CN where X = H' or any other group where a formal dissociation may occur (e.g. KCN or Ca(CN)<sub>2</sub>).
- [2] a. Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH<sub>2</sub>CH<sub>2</sub>)<sub>n</sub>-OR' where:  
  
n = 1, 2, or 3;  
R = alkyl C7 or less; or  
R = phenyl or alkyl substituted phenyl;  
R' = H or alkyl C7 or less; or  
OR' consisting of carboxylic acid ester, sulfate, phosphate, nitrate, or sulfonate.
- b. Glycol ethers do not include ethylene glycol monobutyl ether (EGBE, 2-Butoxyethanol) (CAS No. 111-76-2).
- [3] Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter one micrometer (1μ) or less.
- [4] Includes organic compounds which have more than one benzene ring and which have a boiling point greater than or equal to 212 °F (100 °C).
- [5] A type of atom which spontaneously undergoes radioactive decay.

**MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS  
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**RULE 371  
ACID RAIN**

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Adopted 02/15/1995; Revised 04/03/1996; Revised 03/01/2000; Revised 03/07/2001; Revised 11/19/2003; Revised 03/15/2006; Revised 12/17/2008; Revised 09/16/2009; Revised 07/07/2010; Revised 08/17/2011; Revised 07/25/2012; Revised 03/26/2014; Revised 11/05/2014; Revised 11/18/2015; Revised 11/02/2016; ~~and~~ Revised 12/13/2017; ~~and~~ Revised MM/DD/YYYY.

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

**RULE 371  
ACID RAIN**

**SECTION 100 – GENERAL**

- 101 PURPOSE:** To incorporate by reference the Acid Rain federal regulations in order to obtain delegated authority to enforce portions of the Clean Air Act Amendments of 1990 (CAAA).
- 102 APPLICABILITY:** This rule applies to those affected units as described in 40 CFR 72.6 which has been adopted by reference and no future additions or amendments. Any such stationary source must also comply with other Maricopa County Air Pollution Control Regulations.
- 103 SEVERABILITY:** If the provisions or requirements of the regulations incorporated pursuant to this rule conflict with any of the remaining portions of these rules, the regulations incorporated pursuant to this rule shall apply and shall take precedence.
- 104 AVAILABILITY OF INFORMATION:** Copies of 40 CFR Part 72 (Permits Regulation), 40 CFR Part 74 (Sulfur Dioxide Opt-Ins), 40 CFR Part 75 (Continuous Emission Monitoring), and 40 CFR 76 (Acid Rain Nitrogen Oxides Emission Reduction Program) and all accompanying appendices currently enforced by the Maricopa County Air Quality Department (~~department~~) (department) are available as listed:
- a. Maricopa County Air Quality Department, 1001 N. Central Ave, Suite 125, Phoenix, AZ, 85004.
  - b. Maricopa County Rules are available electronically at <https://www.maricopa.gov/1951/Adopted-Rules>
  - c. EPA documents are available electronically at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>
  - d. ASTM standards are available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428, or from its website at [www.astm.org](http://www.astm.org).
- 105 FEDERAL DELEGATION AUTHORITY:** The department shall enforce the Federal Acid Rain Regulations which have been delegated to the County by the United States Environmental Protection Agency (EPA) for such enforcement. The department may, in addition, enforce such other Acid Rain Rules as delegated for such enforcement by the EPA to the County.

**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.

**SECTION 300 – STANDARDS**

- 301 INCORPORATED SUBPARTS OF THE FEDERAL ACID RAIN REGULATIONS:** The following federal regulations located in the U.S. Code of Federal Regulations, Title 40, Subchapter C (CFR) as codified on ~~July 1, 2017~~ July 1, 2018, are herein incorporated by reference in Maricopa County's Air Pollution Control Regulations. This incorporation by reference includes no future editions or amendments. Each owner or operator subject to the requirements of the following subparts shall comply with the requirements of those subparts and the additional requirements set forth herein. Incorporation by reference does not include nondelegable functions of the EPA Administrator.
- a. 40 CFR Part 72 – Permits Regulation



- b. 40 CFR Part 74 – Sulfur Dioxide Opt-Ins
- c. 40 CFR Part 75 – Continuous Emission Monitoring
- d. 40 CFR Part 76 – Acid Rain Nitrogen Oxides Emission Reduction Program

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**FEDERAL REGULATORY REVISIONS:** The Maricopa County Board of Supervisors shall take action following promulgation by the Environmental Protection Agency (EPA) of regulations implementing Section 407 and Section 410 of the Clean Air Act (CAA), or revising either Part 72, 74, 75, and/or 76 of the regulations implementing Section 407 or Section 410 of the CAA, to either incorporate such new or revised provisions by reference or to submit, for the EPA approval, the Maricopa County Air Pollution Control Regulations implementing these provisions.

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

Adopted 03/15/2006; Revised 12/17/2008; Revised 09/16/2009; Revised 07/07/2010; Revised 08/17/2011; Revised 07/25/2012; Revised 09/25/2013; Revised 03/26/2014; Revised 11/05/2014; Revised 11/18/2015; Revised 11/02/2016; ~~and~~ Revised 12/13/2017; and Revised MM/DD/YYYY.

**MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS**

**APPENDIX G  
Incorporated Materials**

1. The following federal regulations located in the U.S. Code of Federal Regulations, Title 40, Subchapter C (CFR) as codified on ~~July 1, 2017~~ July 1, 2018, are herein incorporated by reference in Maricopa County’s Air Pollution Control Regulations. This incorporation by reference includes no future editions or amendments. Each owner or operator subject to the requirements of the following subparts shall comply with the requirements of those subparts and the additional requirements set forth herein. Incorporation by reference does not include nondelegable functions of the EPA Administrator.
  - a. 40 CFR Part 50 – National Primary and Secondary Ambient Air Quality Standards
  - b. The following appendices to 40 CFR Part 51:
    1. Appendix A to Subpart A of Part 51 – Table 2A: Facility Inventory Data Elements for Reporting Emissions From Point Sources, Where Required by 40 CFR 51.30-
    2. Appendix M to Part 51 – Recommended Test Methods for State Implementation Plans-
    3. Appendix S to Part 51, Section IV – Sources That Would Locate in a Designated Nonattainment Area-
    4. Appendix W to Part 51 – Guideline on Air Quality Models-
  - c. The following appendices to 40 CFR Part 52:
    1. Appendix D to Part 52 – Determination of Sulfur Dioxide Emissions From Stationary Sources by Continuous Monitors-
    2. Appendix E to Part 52 – Performance Specifications and Specification Test Procedures for Monitoring Systems for Effluent Stream Gas Volumetric Flow Rate-
  - d. 40 CFR Part 53 – Ambient Air Monitoring Reference and Equivalent Methods-
  - e. 40 CFR Part 58 – Ambient Air Quality Surveillance-
  - f. The following appendices to 40 CFR Part 60 – Standards of Performance for New Stationary Sources:



1. Appendix A-1 to Part 60 – Test Methods 1 through 2F
  2. Appendix A-2 to Part 60 – Test Methods 2G through 3C
  3. Appendix A-3 to Part 60 – Test Methods 4 through 5I
  4. Appendix A-4 to Part 60 – Test Methods 6 through 10B
  5. Appendix A-5 to Part 60 – Test Methods 11 through 15A
  6. Appendix A-6 to Part 60 – Test Methods 16 through 18
  7. Appendix A-7 to Part 60 – Test Methods 19 through 25E
  8. Appendix A-8 to Part 60 – Test Methods 26 through 30B
  9. Appendix B to Part 60 – Performance Specifications
  10. Appendix C to Part 60 – Determination of Emission Rate Change
  11. Appendix D to Part 60 – Required Emission Inventory Information
  12. Appendix F to Part 60 – Quality Assurance Procedures
- g. The following appendices to 40 CFR Part 61 – National Emission Standards for Hazardous Air Pollutants:
1. Appendix A to Part 61 – National Emission Standards for Hazardous Air Pollutants Compliance Status Information-
  2. Appendix B to Part 61 – Test Methods
  3. Appendix C to Part 61 – Quality Assurance Procedures
- h. The following appendices to 40 CFR Part 63 – National Emission Standards for Hazardous Air Pollutants for Source Categories:
1. Appendix A to Part 63 – Test Methods Pollutant Measurement Methods from Various Waste Media
  2. Appendix C to Part 63 – Determination of the Fraction Biodegraded (Fbio) in a Biological Treatment Unit-
  3. Appendix E to Part 63 – Monitoring Procedure for Nonthoroughly Mixed Open Biological Treatment Systems at Kraft Pulp Mills Under Unsafe Sampling Conditions
2. The following are federally listed non-precursor organic compounds, organic compounds which have been determined to have negligible photochemical reactivity as listed in 40 CFR 51.100(s). This list is incorporated by reference as of ~~July 1, 2017~~ July 1, 2018, and no future editions or amendments:

CAS NUMBER	COMPOUND NAME
1615-75-4	1 chloro-1-fluoroethane (HCFC-151a);
163702-07-6	1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C <sub>4</sub> F <sub>9</sub> OCH <sub>3</sub> or HFE-7100);
375-03-1	1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C <sub>3</sub> F <sub>7</sub> OCH <sub>3</sub> , HFE-7000);
132182-92-4	1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300);
431-89-0	1,1,1,2,3,3,3-heptafluoropropane (HFC-227ea);
431-63-0	1,1,1,2,3,3,3-hexafluoropropane (HFC-236ea);
138495-42-8	1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mee);
431-31-2	1,1,1,2,3-pentafluoropropane (HFC-245eb);
811-97-2	1,1,1,2-tetrafluoroethane (HFC-134a);
690-39-1	1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
406-58-6	1,1,1,3,3-pentafluorobutane (HFC-365mfc);
460-73-1	1,1,1,3,3-pentafluoropropane (HFC-245fa);

71-55-6	1,1,1-trichloroethane (methyl chloroform);
306-83-2	1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
420-46-2	1,1,1-trifluoroethane (HFC-143a);
679-86-7	1,1,2,2,3-pentafluoropropane (HFC-245ca);
359-35-3	1,1,2,2-tetrafluoroethane (HFC-134);
406-78-0	1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane (HFE-347pcf2)
<b>CAS NUMBER</b>	<b>COMPOUND NAME</b>
24270-66-4	1,1,2,3,3-pentafluoropropane (HFC-245ea);
76-13-1	1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
1717-00-6	1,1-dichloro 1-fluoroethane (HCFC-141b);
75-34-3	1,1-difluoroethane (HFC-152a);
76-14-2	1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
354-23-4	1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
507-55-1	1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
75-68-3	1-chloro 1,1-difluoroethane (HCFC-142b);
163702-05-4	1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C <sub>4</sub> F <sub>9</sub> OC <sub>2</sub> H <sub>5</sub> or HFE-7200);
124-68-5	2-amino-2- methyl-1-propanol (AMP)
163702-08-7	2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF <sub>3</sub> ) <sub>2</sub> CF <sub>2</sub> OCH <sub>3</sub> );
163702-06-5	2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF <sub>3</sub> ) <sub>2</sub> CF <sub>2</sub> OC <sub>2</sub> H <sub>5</sub> );
754-12-1	2,3,3,3-tetrafluoropropene;
2837-89-0	2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
422-56-0	3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
297730-93-9	3-ethoxy- 1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500);
67-64-1	acetone;
75-45-6	chlorodifluoromethane (HCFC-22);
593-70-4	chlorofluoromethane (HCFC-31);
76-15-3	chloropentafluoroethane (CFC-115);
0	cyclic, branched, or linear completely methylated siloxanes;
75-71-8	dichlorodifluoromethane (CFC-12);
95508-16-0	difluoromethane (HFC-32);
616-38-6	dimethyl carbonate;
74-84-0	ethane;
95508-16-0	ethylfluoride (HFC-161);
188690-78-0	HCF <sub>2</sub> OCF <sub>2</sub> CF <sub>2</sub> OCF <sub>2</sub> H (HFE-338pcc13);
1691-17-4	HCF <sub>2</sub> OCF <sub>2</sub> H (HFE-134);
188690-77-9	HCF <sub>2</sub> OCF <sub>2</sub> OCF <sub>2</sub> CF <sub>2</sub> OCF <sub>2</sub> H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));
78522-47-1	HCF <sub>2</sub> OCF <sub>2</sub> OCF <sub>2</sub> H (HFE-236cal2);
72-84-8	methane;
79-20-9	methyl acetate;
107-33-3	methyl formate (HCOOCH <sub>3</sub> );
75-09-2	methylene chloride (dichloromethane);
98-56-6	parachlorobenzotrifluoride (PCBTf);
354-33-6	pentafluoroethane (HFC-125);
127-18-4	perchloroethylene (tetrachloroethylene);
108-32-7	propylene carbonate;
102687-65-0	<i>trans</i> 1-chloro-3,3,3-trifluoroprop-1-ene (Solstice™ 1233zd(E)
540-88-5	<i>t</i> -Butyl Acetate (TBAC)
29118-24-9	<i>trans</i> -1,3,3,3-tetrafluoropropene;
75-69-4	trichlorofluoromethane (CFC-11);
75-46-7	trifluoromethane (HFC-23);
0	and perfluorocarbon compounds which fall into these classes:
	(i) Cyclic, branched, or linear, completely fluorinated alkanes;
	(ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
	(iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
	(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

3. The following documents are incorporated by reference and are approved for use as directed by the department under the Maricopa County Air Pollution Control Regulations. These documents are incorporated by reference as of the year specified below, and no future editions or amendments.

- a. Section 1 and Section 7 of the Arizona Department of Environmental Quality's (ADEQ) "Arizona Testing Manual for Air Pollutant Emissions," amended as of March 1992, and no future editions or amendments.



- b. The U.S. Government Printing Office's "Standard Industrial Classification Manual, 1987", published by the Executive Office of the President, Office of Management and Budget, and no future editions or amendments.
  - c. EPA Publication No. AP-42, 1995, "Compilation of Air Pollutant Emission Factors," Volume I: Stationary Point and Area Sources, Fifth Edition, including Supplements A, B, C, D, E, F, Updates 2001, 2002, 2003, and 2004 and all updates as of ~~July 1, 2017~~ July 1, 2018, and no future editions or amendments.
  - d. EPA guidance document "Guidelines for Determining Capture Efficiency", January 9, 1995, and no future editions or amendments.
  - e. 2002 US NAICS Manual, "North American Industry Classification System United States", National Technical Information Service, US Census Bureau, 2002, and no future editions or amendments.
4. **Availability of Information:** Incorporated materials are available as listed:
- a. Maricopa County Air Quality Department, 1001 N. Central Ave, Suite 125, Phoenix, AZ, 85004.
  - b. Maricopa County Rules are available electronically at <https://www.maricopa.gov/1951/Adopted-Rules>
  - c. EPA documents are available electronically at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>
  - d. ASTM standards are available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428, or from its website at [www.astm.org](http://www.astm.org).

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**REGISTER INDEXES**

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

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Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**

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

**SUPPLEMENTAL PROPOSED RULEMAKING**

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

**FINAL RULEMAKING**

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

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

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

**FINAL SUMMARY**

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

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

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

**SUPPLEMENTAL EXPEDITED**

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

**FINAL EXPEDITED**

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

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

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

**EXEMPT SUPPLEMENTAL PROPOSED**

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

**FINAL EXEMPT RULEMAKING**

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

**EMERGENCY RULEMAKING**

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

**RECODIFICATION OF RULES**

RC = Recodified

**REJECTION OF RULES**

RJ = Rejected by the Attorney General

**TERMINATION OF RULES**

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

**RULE EXPIRATIONS**

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

**CORRECTIONS**

C = Corrections to Published Rules

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## RULES EFFECTIVE DATES CALENDAR

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

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
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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
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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 JULY 12, 2018 MEETING**

[M18-63]

*Rules:***DEPARTMENT OF PUBLIC SAFETY**

Title 13, Chapter 13, Article 1, School Bus Minimum Standards

**Amend:** R13-13-101; R13-13-102**COUNCIL ACTION: APPROVED****DEPARTMENT OF PUBLIC SAFETY**

Title 13, Chapter 13, Article 1, School Bus Minimum Standards

**Amend:** R13-13-106**COUNCIL ACTION: APPROVED****INDUSTRIAL COMMISSION**

Title 20, Chapter 5, Article 1, Workers' Compensation Practice and Procedure; Article 13, Treatment Guidelines

**Amend:** R20-5-106; R20-5-1301; R20-5-1302; R20-5-1303; R20-5-1309; R20-5-1310; R20-5-1311**COUNCIL ACTION: APPROVED****DEPARTMENT OF HEALTH SERVICES**

Title 9, Chapter 7, Article 1, General Provisions; Article 3, Radioactive Material Licensing; Article 4, Standards for Protection against Ionizing Radiation; Article 6, Use of X-Rays in the Healing Arts; Article 7, Medical Uses of Radioactive Material; Article 10, Notices, Instructions, and Reports to Radiation Workers, Inspections; Article 15, Transportation; Article 19, Physical Protection for Category 1 and Category 2 Quantities of Radioactive Material

**Amend:** R9-7-102; R9-7-103; R9-7-302; R9-7-303; R9-7-304; R9-7-305; R9-7-306; R9-7-311; R9-7-313; R9-7-323; R9-7-408; R9-7-415; R9-7-417; R9-7-418; R9-7-419; R9-7-448; R9-7-451; Appendix C; R9-7-611.01; R9-7-613; R9-7-710; R9-7-711; R9-7-719; R9-7-721; Exhibit A; R9-7-1006; R9-7-1507; R9-7-1508; R9-7-1510; R9-7-1512; R9-7-1515; R9-7-1927; R9-7-1943; R9-7-1975; R9-7-1977; R9-7-19101**COUNCIL ACTION: APPROVED***Five-Year Review Reports:***DEPARTMENT OF HEALTH SERVICES**

Title 12, Chapter 1, Article 3, Radioactive Material Licensing

**COUNCIL ACTION: APPROVED****DEPARTMENT OF TRANSPORTATION**

Title 17, Chapter 6, Article 1, General Provisions; Article 2, Special Permit Classes and Fees; Article 3, Safety Requirements; Article 4, Transport Provisions; Article 5, Envelope Permit Special Provisions

**COUNCIL ACTION: APPROVED****DEPARTMENT OF INSURANCE**

Title 20, Chapter 6, Article 7, Licensing Provisions and Procedures; Article 8, Prohibited Practices, Penalties; Article 10, Long-Term Care Insurance; Article 12, HIV/AIDS: Prohibited and Required Practices; Article 14, Insurance Holding Company; Article 16, Credit for Reinsurance; Article 17, Examinations; Article 22, Military Personnel

**COUNCIL ACTION: APPROVED**



**CRIMINAL JUSTICE COMMISSION**

Title 10, Chapter 4, Article 1, Crime Victim Compensation Program

COUNCIL ACTION: APPROVED

**DEPARTMENT OF HEALTH SERVICES**

Title 9, Chapter 10, Article 1, General

COUNCIL ACTION: APPROVED

**DEPARTMENT OF HEALTH SERVICES**

Title 9, Chapter 10, Article 3, Behavioral Health Inpatient Facilities

COUNCIL ACTION: APPROVED

**DEPARTMENT OF ADMINISTRATION**

Title 2, Chapter 5, Subchapter A, Covered and Uncovered Employees; Subchapter B, Covered Employees

COUNCIL ACTION: APPROVED

*Required Review Reports:*

**DEPARTMENT OF REVENUE**

- R15-2E-101: Feeder Organization Not Exempt from Tax
- R15-2E-201: Denial of Exemption
- R15-2E-202: Determination of Reasonable Accumulation of Income
- R15-2E-203: Procedure to Recover Exempt Status
- R15-2E-301: Returns of Tax-exempt Status

COUNCIL ACTION: REPORT REQUIRED BY JULY 19, 2018

*Five-Year Review Report Due Date Extensions:*

**BOARD OF ACCOUNTANCY**

Title 4, Chapter 1

COUNCIL ACTION: DUE DATE EXTENDED TO AUGUST 31, 2019

**DEPARTMENT OF ADMINISTRATION**

Title 2, Chapter 18

COUNCIL ACTION: DUE DATE EXTENDED TO JULY 31, 2019