



Arizona Administrative REGISTER

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From the Publisher

ABOUT THIS PUBLICATION

The authenticated pdf of the *Administrative Register* (A.A.R.) posted on the Arizona Secretary of State's website is the official published version for 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 *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 notices of rules terminated by the agency and rules that have expired.

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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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

New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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 authenticated pdf of *Code* chapters posted on the Arizona Secretary of State's website are the official published version of rules in the A.A.C. The *Code* is posted online for free.

LEGAL CITATIONS AND FILING NUMBERS

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

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

Arizona Administrative REGISTER

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ADMINISTRATIVE REGISTER
This publication is available online for free at www.azsos.gov.

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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The Office of the Secretary of State is an equal opportunity employer.



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.

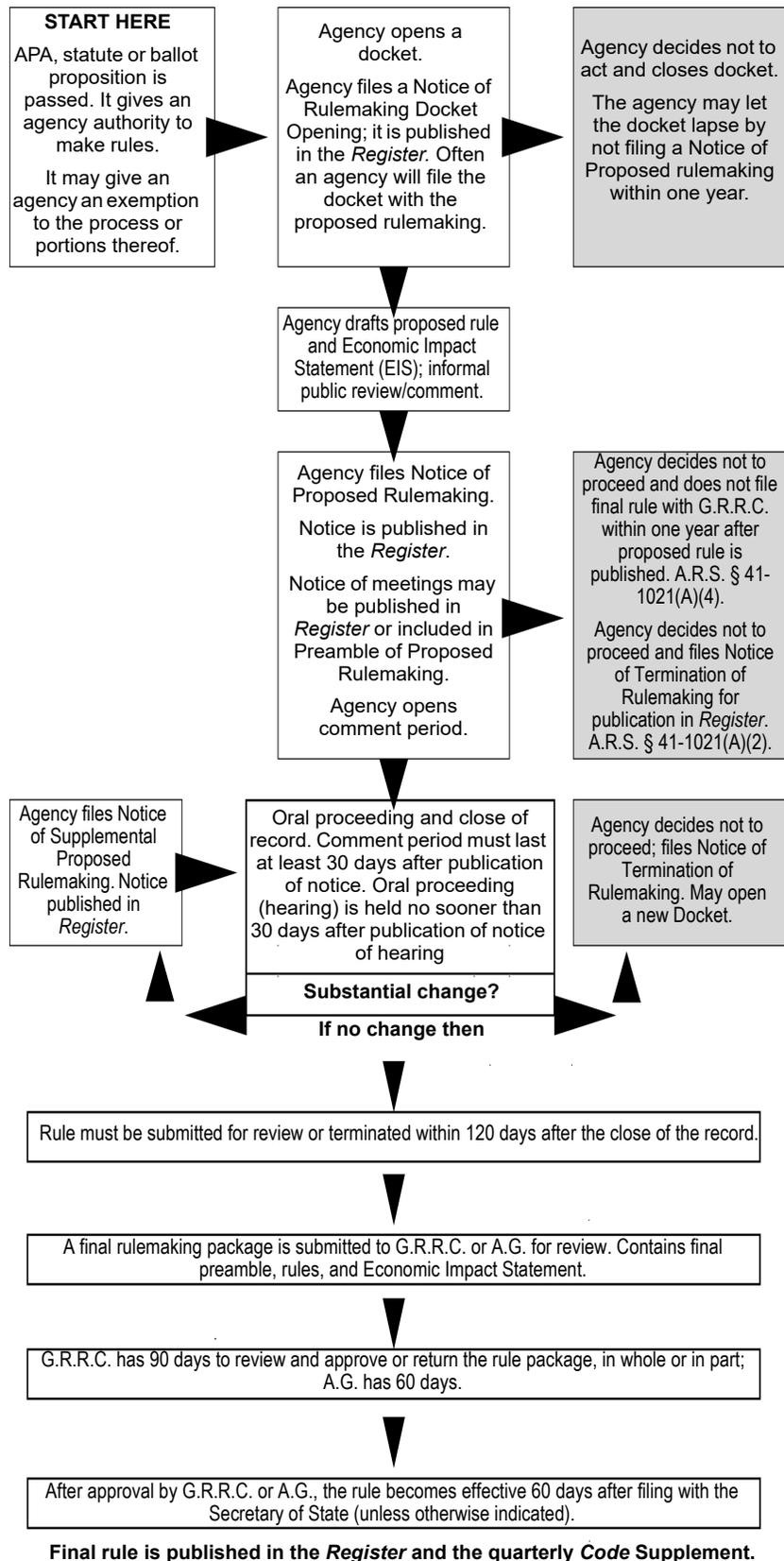
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

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.

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

Administrative Procedure Act (APA): A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at 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.

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.

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 Rulemakings.

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 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 9. HEALTH SERVICES

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

[R20-189]

PREAMBLE

- | | |
|---|---------------------------------|
| 1. <u>Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R9-22-703 | 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. § 36-2904
 Implementing statute: A.R.S. § 36-2904
- 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: 26 A.A.R. 3003, November 20, 2020 (*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
 Website: 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:**
 Proposed modifications to A.A.C. R9-22-703 include updating when an electronic claim is deemed received by the Administration to clarify what elements are needed in order for the Administration to process a claim. This will clarify when a claim has risen to the level of being recognized by the Administration and therefore falling under the jurisdiction of any grievances, appeals, or additional regulations governing claims processed by the Administration. As the result of this rulemaking, the Administration is able to focus on those claims in the proper format for processing, and reduce the time spent on incomplete claims unable to be processed by the information processing system. Absent this coverage, much of the claims, i.e. all electronic claims, will be bogged down by incomplete and fractional claims the system attempts to process instead of focusing on only those claims will sufficient information to be able to be processed by the Administration. Ultimately, a failure to enact this rulemaking will allow the Administration to continue as it has been, with no fiscal or administrative change. However, enacting this rulemaking will streamline the process and save both processor and staff time wading through unprocessable claims.
- 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 Administration does not anticipate that this rulemaking will have an economic effect on the state, businesses or the public.

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., December 21, 2020.

Date: December 21, 2020
Time: 2:00 p.m.
Location: <https://meet.google.com/cqf-gdpm-www>
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

Sections

R9-22-703. Payments by the Administration

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-703. Payments by the Administration

- A. General requirements. A provider shall enter into a provider agreement with the Administration that meets the requirements of A.R.S. § 36-2904 and 42 CFR 431.107(b) as of October 1, 2012, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
- B. Timely submission of claims.

- 1. Under A.R.S. § 36-2904, the Administration shall deem a paper or electronic claim to be submitted on the date that it is received by the Administration. An electronic claim is deemed received by the Administration when the claim enters the information processing system designated by the Administration for electronic claims in a form that is capable of being processed by the designated information processing system. The Administration shall do one or more of the following for each claim it receives:
 - a. Place a date stamp on the face of the claim,



- b. Assign a system-generated claim reference number, or
 - c. Assign a system-generated date-specific number.
 2. Unless a shorter time period is specified in contract, the Administration shall not pay a claim for a covered service unless the claim is initially submitted within one of the following time limits, whichever is later:
 - a. Six months from the date of service or for an inpatient hospital claim, six months from the date of discharge; or
 - b. Six months from the date of eligibility posting.
 3. Unless a shorter time period is specified in contract, the Administration shall not pay a clean claim for a covered service unless the claim is submitted within one of the following time limits, whichever is later:
 - a. Twelve months from the date of service or for an inpatient hospital claim, 12 months from the date of discharge; or
 - b. Twelve months from the date of eligibility posting.
 4. Unless a shorter time period is specified in contract, the Administration shall not pay a claim submitted by an HIS or tribal facility for a covered service unless the claim is initially submitted within 12 months from the date of service, date of discharge, or eligibility posting, whichever is later.
- C. Claims processing.
 1. The Administration shall notify the AHCCCS-registered provider with a remittance advice when a claim is processed for payment.
 2. The Administration shall reimburse a hospital for inpatient hospital admissions and outpatient hospital services rendered on or after March 1, 1993, as follows and in the manner and at the rate described in A.R.S. § 36-2903.01:
 - a. If the hospital bill is paid within 30 days from the date of receipt, the claim is paid at 99 percent of the rate.
 - b. If the hospital bill is paid between 30 and 60 days from the date of receipt, the claim is paid at 100 percent of the rate.
 - c. If the hospital bill is paid after 60 days from the date of receipt, the claim is paid at 100 percent of the rate plus a fee of one percent per month for each month or portion of a month following the 60th day of receipt of the bill until date of payment.
 3. A claim is paid on the date indicated on the disbursement check.
 4. A claim is denied as of the date of the remittance advice.
 5. The Administration shall process a hospital claim under this Article.
- D. Prior authorization.
 1. An AHCCCS-registered provider shall:
 - a. Obtain prior authorization from the Administration for non-emergency hospital admissions, covered services as specified in Articles 2 and 12 of this Chapter, and for administrative days as described in R9- 22-712.75,
 - b. Notify the Administration of hospital admissions under Article 2 of this Chapter, and
 - c. Make records available for review by the Administration upon request.
 2. The Administration may deny a claim if the provider fails to comply with subsection (D)(1).
 3. If the Administration issues prior authorization for an inpatient hospital admission, a specific service, or level of care but subsequent medical review indicates that the admission, the service, or level of care was not medically appropriate, the Administration shall adjust the claim payment.
- E. Review of claims and coverage for hospital supplies.
 1. The Administration may conduct prepayment and postpayment review of any claims, including but not limited to hospital claims.
 2. Personal care items supplied by a hospital, including but not limited to the following, are not covered services:
 - a. Patient care kit,
 - b. Toothbrush,
 - c. Toothpaste,
 - d. Petroleum jelly,
 - e. Deodorant,
 - f. Septi soap,
 - g. Razor or disposable razor,
 - h. Shaving cream,
 - i. Slippers,
 - j. Mouthwash,
 - k. Shampoo,
 - l. Powder,
 - m. Lotion,
 - n. Comb, and
 - o. Patient gown.
 3. The following hospital supplies and equipment, if medically necessary and used by the member, are covered services:
 - a. Arm board,
 - b. Diaper,
 - c. Underpad,
 - d. Special mattress and special bed,
 - e. Gloves,
 - f. Wrist restraint,
 - g. Limb holder,
 - h. Disposable item used instead of a durable item,
 - i. Universal precaution,
 - j. Stat charge, and
 - k. Portable charge.



4. The Administration shall determine in a hospital claims review whether services rendered were:
 - a. Covered services as defined in Article 2;
 - b. Medically necessary;
 - c. Provided in the most appropriate, cost-effective, and least restrictive setting; and
 - d. For claims with dates of admission on and after March 1, 1993, substantiated by the minimum documentation specified in A.R.S. § 36-2903.01.
5. If the Administration adjudicates a claim, a person may file a claim dispute challenging the adjudication under 9 A.A.C. 34.
- F. Overpayment for AHCCCS services.**
 1. An AHCCCS-registered provider shall notify the Administration when the provider discovers the Administration made an overpayment.
 2. The Administration shall recoup an overpayment from a future claim cycle if an AHCCCS-registered provider fails to return the overpaid amount to the Administration.
 3. The Administration shall document any recoupment of an overpayment on a remittance advice.
 4. An AHCCCS-registered provider may file a claim dispute under 9 A.A.C. 34 if the AHCCCS-registered provider disagrees with a recoupment action.
- G.** For services subject to limitations or exclusions such as the number of hours, days, or visits covered as described in Article 2 of this Chapter, once the limit is reached the Administration will not reimburse the services.
- H. Prior quarter reimbursement. A provider shall:**
 1. Bill the Administration for services provided during a prior quarter eligibility period upon verification of eligibility or upon notification from a member of AHCCCS eligibility.
 2. Reimburse a member when payment has been received from the Administration for covered services during a prior quarter eligibility period. All funds paid by the member shall be reimbursed.
 3. Accept payment received by the Administration as payment in full.
- I.** Payment for in-state inpatient hospital services for claims with discharge dates on or before September 30, 2014. The Administration shall reimburse an in-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, the prospective tiered-per-diem amount in A.R.S. § 36-2903.01 and this Article.
- J.** Payment for out-of-state inpatient hospital services for claims with discharge dates on or before September 30, 2014. The Administration shall reimburse an out-of-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, for covered inpatient services by multiplying covered charges by the most recent statewide urban cost-to-charge ratio as determined in R9-22-712.01(6)(b).
- K.** Payment for inpatient hospital services for claims with discharge dates on and after October 1, 2014 regardless of admission date. The Administration shall reimburse an in-state or out-of-state provider of inpatient hospital services rendered with a discharge date on or after October 1, 2014, the DRG rate established by the Administration.
- L.** The Administration may enter into contracts for the provisions of transplant services.



NOTICES OF FINAL RULEMAKING

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

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

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

The final published notice includes a preamble and

**NOTICE OF FINAL RULEMAKING
TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES
RADIATION CONTROL**

[R20-195]

PREAMBLE

- | | |
|---|---------------------------------|
| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R9-7-1302 | Amend |
| R9-7-1303 | Amend |
| R9-7-1304 | Amend |
| R9-7-1306 | Amend |
| Table 13.1 | New Section |
| R9-7-1307 | Repeal |
| Table 1 | Repeal |
| Table 13.2 | New Section |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statutes: A.R.S. §§ 30-654(B)(5) and 36-136(G)
 Implementing statutes: A.R.S. §§ 30-654, 30-656, 30-671, 30-672, 30-686, and 30-721
- 3. The effective date of the rules:**
 November 3, 2020
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
 Notice of Rulemaking Docket Opening: 26 A.A.R. 762, April 24, 2020
 Notice of Proposed Rulemaking: 26 A.A.R. 1157, June 12, 2020
- 5. The agency’s contact person who can answer questions about the rulemaking:**
- | | |
|------------|---|
| Name: | Brian D. Goretzki, Chief, Bureau of Radiation Control |
| Address: | Department of Health Services Public Health Licensing Services 4814 S. 40th St. Phoenix, AZ 85040 |
| Telephone: | (602) 255-4840 |
| Fax: | (602) 437-0705 |
| E-mail: | Brian.Goretzki@azdhs.gov |
| | or |
| Name: | Robert Lane, Office Chief |
| Address: | Department of Health Services Office of Administrative Counsel and Rules 150 N. 18th Ave., Suite 200 Phoenix, AZ 85007 |
| Telephone: | (602) 542-1020 |
| Fax: | (602) 364-1150 |
| E-mail: | Robert.Lane@azdhs.gov |
- 6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
 Arizona Revised Statutes (A.R.S.) § 30-654(B)(5) requires rulemaking deemed necessary to administer A.R.S. Title 30, Chapter 4,



Control of Ionizing Radiation. Laws 2017, Ch. 313, and Laws 2018, Ch. 234, made the Arizona Department of Health Services (Department) responsible for administering A.R.S. Title 30, Chapter 4, and specified the duties and authority of the Department. To clarify that the Department had assumed responsibility for regulating the use and users of ionizing and non-ionizing radiation, the Department recodified the rules related to radiation control that had been in Arizona Administrative Code (A.A.C.) Title 12, Chapter 1, into A.A.C. Title 36, Chapter 7, only making changes to refer to the Department or for cross-references. However, upon assuming responsibility for the control of ionizing and non-ionizing radiation, the Department discovered that the fees specified in the rules were insufficient to cover the expenses incurred by the Department in carrying out this function. Therefore, after receiving an exception from the rulemaking moratorium established by Executive Order 2018-02, the Department is now revising the rules in 9 A.A.C. 7, Article 13, to increase fees to cover the short-fall and making other corresponding changes to the rules to clarify requirements. The Department anticipates these changes will ensure sufficient funding for the Department to continue regulating the use and users of ionizing radiation in an efficient manner to protect the health and safety of Arizona’s citizens. The new rules will conform to rulemaking format and style requirements of the Governor’s Regulatory Review Council and the Office of the Secretary of State.

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

The Department did not review or rely on any study for this rulemaking. However, the Department did review the fees charged by the U.S. Nuclear Regulatory Commission and by other states, as shown on their websites.

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

The Department anticipates that the rulemaking, which is increasing fees that have remained the same for over 10 years, may affect the Department; licensees or registrants who use, store, or dispose of sources of radiation; businesses that contract with licensees or registrants to perform activities covered under the rules in Chapter 7; employees of licensees or registrants or entities that contract with licensees or registrants; patients and their families; and the general public. Annual costs/revenues changes are designated as minimal when more than \$0 and \$2,000 or less, moderate when between \$2,000 and \$10,000, and substantial when \$10,000 or greater in additional costs or revenues. A cost is listed as significant when meaningful or important, but not readily subject to quantification.

As of December 31, 2019, the Department has issued 353 licenses to persons who use, store, or dispose of sources of radiation and 7,812 registrations to entities with a total of 20,982 devices that are sources of radiation, for a total of 8,165 licenses or registrations issued. Under the fees in the current rules, the Department receives revenue of approximately \$1,700,000. Of this amount, \$300,000 is deposited into the state general fund according to A.R.S. § 30-654(C). Of the remaining \$1,400,000, 90% (about \$1,260,000) is deposited into the health services licensing fund, established according to A.R.S. § 36-414, for use by the Department, and another 10% (about \$140,000) into the state general fund according to A.R.S. § 30-654(C).

Since assuming responsibility for the control of ionizing radiation and regulation over those using, storing, or disposing of sources of radiation in 2017, the Department’s expenses have consistently been more than the revenue received, and this shortfall has reached the point where the Department has to increase fees or reduce regulatory activities. Such reduction in regulatory activity could include not inspecting facilities or investigating complaints in a timely manner, not being able to detect unsafe environmental conditions, and taking much more time to resolve problems with applications and to issue licenses or registrations. The Department believes this reduction in regulatory oversight may result in harm to the health and safety of the public, as well as causing a burden on the regulated community, businesses that contract with regulated entities, employees of a regulated entity or a business contracting with a regulated entity, patients and their families, and the general public. The fees specified in the new rules would be sufficient to cover the shortfall and allow the Department to continue to protect public health. They are also in line with the fees charged by other states. Therefore, the Department would receive a substantial benefit from the fee increase.

The Department licenses a wide variety of entities, including industrial businesses, academic institutions, medical/veterinary facilities, laboratories, and governmental entities, and these may range from a large national or international corporation to a small company. The Department believes that the increase in licensing costs caused by the new fees may result in a licensee incurring a minimal-to-substantial burden, depending on the type of license or licenses the licensee receives. The Department issues registrations to entities that use devices that are sources of radiation, including X-ray devices, particle accelerators, tanning devices, class 3b or class 4 lasers, or radio frequency devices. Some fees are based on the type of facility, while others are based on the number of devices. The Department anticipates that one hospital with 85 registered X-ray machines may incur a substantial burden from the increase of the registration fee from \$125 to \$195 per device. Fewer than 40 other registrants are expected to incur a moderate burden from the increased fees, while the Department believes that all other registrants would incur a minimal burden from the fee increases in the new rules. The Department expects licensees and registrants to receive a significant benefit from improvements in the data system to be used for receiving and processing applications and communicating with licensees and registrants and from increased numbers of well-trained surveyors, which may result in shorter processing times for applications and amendments, as well as improved communication and answers to questions.

Businesses that contract with licensees or registrants to perform activities covered under the rules in 9 A.A.C. 7 may incur up to a moderate increase in contracting costs if a licensee or registrant passes along a portion of the fee increase to a business with which it contracts. However, because the fee increases will allow the Department to continue to provide adequate oversight of sources of radiation in Arizona, the Department believes that these businesses may also receive a significant benefit from the oversight in ensuring the safe use of sources of radiation. Continued oversight by the Department may improve compliance and provide a safer work environment for an employee of a licensee or registrant or an entity employing a licensee or registrant. Therefore, the Depart-



ment anticipates that such an employee may receive a significant benefit from the new rules. Patients who receive diagnostic or therapeutic procedures at facilities licensed under the rules in 9 A.A.C. 7 or with equipment registered under the rules and their families may also receive a significant benefit from increased safety due to the Department’s continued oversight. If a facility passes any increased costs on to patients, these patients could incur a minimal burden from the increased fees. Similarly, the Department believes that the health and safety of the general public are protected by continued oversight by the Department of ionizing or non-ionizing radiation, and that the general public may receive a significant benefit from the fee changes.

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

A typographical error in Table 13.2 was corrected so the same fees as specified in Table 1 of the current rules were displayed in the second column of the Table, rather than the first column being duplicated. The Department also clarified that the fee listed in Table 13.1 for category F12 is per facility, rather than per device. At the request of the Council, the Department also reduced the fees for some categories of registrants. No other changes were made to the rules between the proposed rulemaking and the final rulemaking.

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

Two written comments were received about the rulemaking during the public comment period and are summarized below, together with the Department’s responses. The Department held an oral proceeding for the proposed rules on July 13, 2020, which no stakeholder/member of the public attended or participated in telephonically.

| Comment | Department’s Response |
|--|--|
| <p>A comment was received from the Health System Alliance of Arizona (HSAA), “an advocacy organization representing integrated health systems across the state.” While recognizing that the fee increases that are part of the rulemaking are being made “to align license and registration fees to the cost of administering the Department’s Radiation Control Program” and that these fees have not been increased since 2008, HSAA does not support the fee increases. The comment stated that hospitals will incur losses due to COVID-19 and requests that the implementation of the fee increases be delayed while additional discussions take place.</p> | <p>The Department thanks the commenters for recognizing the Department’s need for the additional funding to enable the continued regulation of sources of radiation and their users. While the Department sympathizes with the health care industry and is doing all it can to mitigate the expenses being incurred due to COVID-19, such as funding 26 nurses to relieve the stress on hospital personnel, the Department cannot delay the implementation of the fee increase, which will average about \$6,200 for a hospital.</p> |
| <p>A comment was received from the Arizona Hospital and Healthcare Association (AzHHA) representing “more than 80 hospital, healthcare, and affiliated health system members.” AzHHA recognized that the fees “support an indispensable public safety function,” have not been increased “for over a decade,” and “are currently insufficient to cover the department’s expenses in regulating the use and users of radiation in the state.” However, AzHHA stated that “any fee increase on hospitals and healthcare providers constitutes a hardship” and requests that “ADHS defer the imposition of the proposed radiation control fee increases that affect hospitals and other health care providers.”</p> | <p>These fees are paid on an annual basis and are due by January 1 each year, with penalties imposed if not paid by April. Between 30 and 40% of licensees and registrants pay the fees before January 1. By delaying the effective date even to January 1, any licensee or registrant paying the fee for 2021 before the effective date would be expected to pay the current fee, and the revenue generated would not cover expenses.</p> <p>The Department recognized the shortfall between revenue and expenses shortly after assuming authority over this regulatory activity in 2017 and has tried since then to improve efficiency and decrease costs. The Department has already delayed the fee increase by a year, while continuing to work to minimize expenses so the fee increase could be as small as possible. The Department cannot afford to cover another year of the shortfall and does not plan to change the rule or the planned effective date based on the comments.</p> |

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:

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:

According to A.R.S. Title 30, Chapter 4, Article 2, as amended by Laws 2017, Ch. 313, the Department is authorized to issue licenses and registrations for sources of ionizing radiation and those persons using these sources. This licensing and registration must be compatible with requirements in the Agreement. The rules refer to permits both general and specific. The general permit applies to certain levels of radioactive material, and specific permits are issued by rule for quantities and uses that are specific to the user and their training or scope of practice.

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

The rules are not more stringent than 10 CFR 170, the only applicable 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 business competitiveness analysis was received by the Department.

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

Not applicable

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 9. HEALTH SERVICES
CHAPTER 7. RADIATION CONTROL

ARTICLE 13. LICENSE AND REGISTRATION FEES

Table with 2 columns: Section and Description. Rows include R9-7-1302 (License and Registration Categories), R9-7-1303 (Fee for Initial License and Initial Registration), R9-7-1304 (Annual Fees for Licenses and Registrations), R9-7-1306 (Table of Application Fees and Annual Fees), Table 13.1 (Table of Fees), R9-7-1307 (Special License Fees Repealed), Table 1 (Small Entity Fees+ Repealed), and Table 13.2 (Small Entity Fees).

ARTICLE 13. LICENSE AND REGISTRATION FEES

R9-7-1302. License and Registration Categories

- A. Category A licenses are those specific licenses which that authorize a school, college, university, or other teaching facility to possess and use radioactive materials for instructional or research purposes.
1. A broad academic class A license is any category A license which that meets the specifications of R9-7-310(A)(1).
2. A broad academic class B license is any category A license other than a broad academic class A license which that meets the specifications of R9-7-310(A)(2).
3. A broad academic class C license is any category A license other than a broad academic class A or B license which that meets the specifications of R9-7-310(A)(3).
4. A limited academic license is any category A license which that authorizes only those radioisotopes, forms, and quantities individually specified in the license.
B. Category B licenses are those specific or general licenses which that authorize the application of radioactive material or the radiation from it to a human being for medical diagnostic, therapeutic, or research purposes, or the use of radioactive material in medical laboratory testing.
1. A broad medical license is any category B license which that meets the specifications of R9-7-310(A)(1) and meets the requirements of 9 A.A.C. 7, Article 7.
2. A medical materials class A license is any specific category B license other than a broad medical license, which that authorizes the use of radiopharmaceuticals and sealed sources containing radioactive materials for a therapeutic purpose in quantities which that require hospitalization of the patient for radiation safety purposes.
3. A medical materials class B license is any specific category B license which that authorizes the diagnostic or therapeutic use, other than teletherapy, of radioactive materials only in limited quantities such that the patient need not be hospitalized for radiation safety purposes.
4. A medical materials class C license is any specific category B license which that authorizes possession of specified radioisotopes only in the form of sealed sources for treatment of the eye or skin or for use in diagnostic medical imaging devices.
5. A medical teletherapy license is a specific category B license which that solely authorizes radioisotopes in the form of multi-curie sealed sources for use in external beam therapy.
6. A general medical license is a registration of one that authorizes the use of radioactive material pursuant to R9-7-306(D) or R9-7-306(E).
C. Category C licenses are those specific or general licenses authorizing that authorize the use of radioactive materials in any activity other than those authorized by a category A, B, or D license.
1. A broad industrial class A license is any category C license which that meets the specifications of R9-7-310(A)(1).
2. A broad industrial class B license is any category C license other than a broad industrial class A license which that meets the specifications of R9-7-310(A)(2).
3. A broad industrial class C license is any category C license other than a broad industrial class A or B license which that meets the specifications of R9-7-310(A)(3).



4. A limited industrial license is a specific category C license ~~authorizing that authorizes~~ the possession of the radioactive materials authorized in R9-7-305(A), or R9-7-306(A), (C), or (F) for uses authorized in those subsections, but in quantities greater than authorized by those subsections.
 5. A portable gauge license is a specific category C license ~~which that~~ authorizes radioactive materials in the form of sealed sources for use in measuring or gauging devices designed and manufactured to be transported to the location of use. The Department may combine a portable gauge license with any broad scope industrial license or a fixed gauge class A license.
 6. A fixed gauge class A license is a specific category C license ~~which that~~ authorizes the possession of 50 or more measuring or gauging devices containing radioactive materials, where each device is permanently mounted for use at a single location.
 7. A fixed gauge class B license is a specific category C license ~~which that~~ authorizes the possession of 1 through 49 measuring or gauging devices containing radioactive materials, where each device is permanently mounted for use at a single location.
 8. A leak detector license is a specific category C license ~~which that~~ authorizes the use of radioisotopes in the form of a gas to test hermetic seals on electronic packages.
 9. A gas chromatograph license is a specific category C license ~~which that~~ authorizes the use of radioactive materials as ionization sources in gas chromatography or electron capture devices.
 10. A general industrial license ~~means a registration of~~ is one that authorizes the use of a material, source, or device generally licensed pursuant to R9-7-305 or R9-7-306, except R9-7-305(B), R9-7-306(D), or R9-7-306(E).
 11. An industrial radiography class A license is a specific category C license ~~which that~~ authorizes industrial radiography using sealed radioisotope sources at specific facilities identified in the license conditions or at temporary field job sites.
 12. An industrial radiography class B license is a specific category C license ~~which that~~ authorizes industrial radiography using sealed radioisotope sources only at specific facilities identified in the license conditions.
 13. An open field irradiator license is a specific category C license ~~authorizing that authorizes~~ the use of radioisotopes in the form of sealed sources not permanently mounted within a shielding container, for irradiation of materials.
 14. A self-shielded irradiator license is a specific category C license ~~authorizing that authorizes~~ the use of radioisotopes in the form of sealed sources for irradiation of materials in a shielding device from which the sources are not removed during irradiation. The Department may combine a self-shielded irradiator license with any broad license.
 15. A well logging license is a specific category C license ~~which that~~ authorizes the use of radioactive material in sealed or unsealed sources for wireline services or field tracer studies.
 16. A research and development license is a specific category C license ~~which that~~ authorizes a licensee to utilize radioactive material in unsealed and sealed form for industrial, scientific, or biomedical research, not including administration of radiation or radioactive material to human beings.
 17. A laboratory license is a specific category C license ~~which that~~ authorizes a licensee to perform specific in-vitro or in-vivo medical or veterinary testing, while possessing quantities of radioactive material greater than the general license quantities authorized in R9-7-306.
- D.** Category D licenses are the following specific or general radioactive material licenses. Except for type D4, general industrial; type D5, depleted uranium; type D8 and D9, health physics; and type D14, additional facilities licenses, the Department shall not combine a category D license with any other license.
1. A distribution license is one ~~which that~~ authorizes the commercial distribution of radioactive materials or radioisotopes in products to persons holding an appropriate general or specific license. The Department shall ensure that a distribution license does not:
 - a. Authorize distribution of radiopharmaceuticals or distribution to persons exempt from regulatory control, or
 - b. Authorize any other use of the radioactive material. An appropriate category C license is required for possession of radioisotopes and their incorporation into products.
 2. A nuclear pharmacy license is one ~~which that~~ authorizes the preparation, compounding, packaging, or dispensing of radiopharmaceuticals for use by other licensees.
 3. A nuclear laundry license is one ~~authorizing that authorizes~~ the collection and cleaning of items contaminated with radioactive materials.
 4. A general industrial gauging device license is ~~a registration of~~ one that authorizes the use of a gauging device in accordance with R9-7-306(A). The Department may combine a general industrial gauging device license with a ~~Class class~~ Class class A, B, or C broad industrial, limited industrial, portable gauge, or ~~Class class~~ Class class A or B fixed gauge license.
 5. A general depleted uranium ~~general~~ license is ~~a registration of~~ one that authorizes the use of the general license authorized pursuant to R9-7-305(C) or the use of depleted uranium as a concentrated mass or as shielding for another radiation source within a device or machine. The Department may combine a general depleted uranium ~~general~~ license with a medical teletherapy; ~~Class class~~ Class class A, B, or C broad industrial; portable gauge; ~~Class class~~ Class class A or B fixed gauge; ~~Class class~~ Class class A or B industrial radiography; or self-shielded irradiator license. For ~~registration~~ licensing purposes, an applicant shall follow the ~~registration instructions~~ requirements in R9-7-305(C).
 6. A veterinary medicine license is one ~~which that~~ authorizes the use of radioactive materials for specific applications in veterinary medicine as authorized in the license.
 7. A general veterinary medicine license is ~~a registration of~~ one that authorizes the use of the general license authorized in R9-7-306(E) in veterinary medicine.
 8. A health physics class A license is one ~~which that~~ authorizes the use of radioactive materials for performing instrument calibrations, processing leak test or environmental samples, or providing radiation dosimetry services.
 9. A health physics class B license is one ~~which that~~ authorizes only the collection, possession, and transfer of radioactive materials in the form of leak test samples for processing by others.



- 10. A secondary uranium recovery license is one ~~which that~~ that authorizes the extraction of natural uranium or thorium from an ore stream or tailing ~~which that~~ is being or has been processed primarily for the extraction of another mineral. The Department shall not combine a secondary uranium recovery license with any other license.
 - 11. A low-level, radioactive waste disposal facility license is a license that is issued for a “disposal facility,” as that term is used in R9-7-439 and R9-7-442, ~~which that~~ that has a closure or long-term care plan and is constructed and operated according to the requirements in 10 CFR 61, revised January 1, 2015, incorporated by reference, ~~and~~ available under R9-7-101. ~~This incorporated material contains and containing~~ no future editions or amendments.
 - 12. A waste processor class A license is one ~~authorizing that authorizes~~ that authorizes the incineration, compaction, repackaging, or any other treatment or processing of low-level radioactive waste prior to transfer to another person authorized to receive or dispose of the waste. The Department shall not combine a waste processor class A license with any other license.
 - 13. A waste processor class B license is one ~~which that~~ that authorizes a waste broker to receive prepackaged, low-level radioactive waste from other licensees; combine the waste into shipments; and transfer the waste without treating or processing the waste in any manner and without repackaging except to place damaged or leaking packages into overpacks. The Department shall not combine a waste processor class B license with any other license.
 - 14. An additional ~~facility storage and use site~~ storage and use site license is an endorsement, by license condition to an existing specific license, authorizing one or more additional separate facilities where radioactive material may be stored or used for a period exceeding six months.
 - 15. A possession-only license is a license of any other category ~~which that~~ that authorizes only the possession in storage, but no use of, the authorized materials. A license ~~which that~~ that has been suspended as an enforcement action is not considered a possession-only license.
 - 16. A reciprocal license is ~~the registration of~~ the registration of the general license authorized by R9-7-320. This license is subject to a special fee as provided by ~~R9-7-1307~~ R9-7-1306(C) but is exempt from annual fees.
 - 17. Reserved
 - 18. An “unclassified” radioactive material license is one ~~authorizing that authorizes~~ that authorizes radioisotopes, physical or chemical forms, possession limits, or uses not included in any other type of license specified in this Section.
 - 19. A NORM commercial disposal site license is one that authorizes the receipt of waste material contaminated with naturally occurring radioactive material from other licensees for permanent disposal, provided the concentration of the radioactive material does not exceed 74kBq (2,000 picocuries)/gram.
- E. Category E registrations are those that register the possession of x-ray machine(s) under 9 A.A.C. 7, Article 2. The Department shall not combine ~~Category category~~ category E registrations with any other registration.
- 1. An X-ray machine class A registration is one authorizing the possession of X-ray machines in a hospital or other facility offering inpatient care.
 - 2. An X-ray machine class B registration is one authorizing the possession of X-ray machines in a medical, osteopathic, or chiropractic office or clinic not offering inpatient care; or the possession of X-ray machines in a school, college, university, or other teaching facility.
 - 3. An X-ray machine class C registration is one authorizing the possession of X-ray machines in dental, podiatry, ~~and or~~ and veterinarian offices or clinics.
 - 4. An industrial radiation machine registration is one authorizing the possession of X-ray machines, or the possession of particle accelerators not capable of producing a high radiation area, in a nonmedical facility.
 - 5. An accelerator facility registration is one authorizing the possession and operation of one or more particle accelerators of any kind capable of accelerating any particle and producing a high radiation area.
 - 6. ~~A~~ An “other” ionizing radiation machine, ~~“other,”~~ registration is one authorizing possession or use of an ionizing radiation machine not included in any other category specified in subsection (E).
- F. Category F registrations are those that register ~~nonionizing non-ionizing~~ non-ionizing radiation producing sources regulated under 9 A.A.C. 7, Article 14. The Department shall not combine ~~Category category~~ category F registrations with any other registration categories that have a difference in fee per unit.
- 1. A tanning registration authorizes the commercial operation of ~~any number of~~ one or more tanning booths, beds, cabinets, or other devices in a single establishment.
 - 2. A Class A laser registration authorizes the operation of one to 10 laser devices subject to R9-7-1433.
 - 3. A Class B laser registration authorizes the operation of 11 to 49 laser devices subject to R9-7-1433.
 - 4. A Class C laser registration authorizes operation of 50 or more laser devices subject to R9-7-1433.
 - 5. A laser light show or laser demonstration registration authorizes the operation of a laser device subject to R9-7-1441.
 - 6. A medical laser registration authorizes the operation of one or more laser devices subject to R9-7-1440.
 - 7. A Class II surgical device registration authorizes the operation of one or more Class II surgical devices subject to R9-7-1438. A device is designated as a Class II surgical device by the USFDA and is labeled as such by the manufacturer.
 - 8. A ~~medical cosmetic~~ medical cosmetic radiofrequency device registration authorizes the operation of one or more medical radiofrequency devices for non-ionizing cosmetic procedures.
 - 9. A class A industrial radiofrequency device registration authorizes the operation of one to five radiofrequency ~~heat sealers or industrial microwave ovens~~ devices.
 - 10. A class B industrial radiofrequency device registration authorizes the operation of six to 20 radiofrequency ~~heat sealers or industrial microwave ovens~~ devices.
 - 11. A class C industrial radiofrequency device registration authorizes the operation more than 20 radiofrequency ~~heat sealers or industrial microwave ovens~~ devices.



- 12. A class A medical radiofrequency device registration authorizes the operation of one or ~~two~~ more medical radiofrequency diathermy or electrocoagulation units not used in non-ionizing cosmetic devices for non-ionizing, non-cosmetic procedures.
- 13. A class B medical radiofrequency device registration authorizes the operation of three to nine radiofrequency diathermy or electrocoagulation units not used in non-ionizing cosmetic procedures.
- 14. A class C medical radiofrequency device registration authorizes the operation of 10 to 19 radiofrequency diathermy or electrocoagulation units not used in non-ionizing cosmetic procedures.
- 15. A class D medical radiofrequency device registration authorizes the operation of 20 or more radiofrequency diathermy or electrocoagulation units not used in non-ionizing cosmetic procedures.
- 16. ~~13.~~ An “other” nonionizing non-ionizing radiation device registration authorizes the operation of a nonionizing non-ionizing radiation device or other device not included in any other category specified in subsection (F).

R9-7-1303. Fee for Initial License and Initial Registration

An applicant shall remit for a new license or new registration the appropriate fee as prescribed in R9-7-1306 and Table 13.1.

R9-7-1304. Annual Fees for Licenses and Registrations

- A. Each license or registration issued by the Department shall identify the category by a letter and number corresponding to the appropriate subsection of R9-7-1302 or the category and type listed in R9-7-1306 Table 13.1.
- B. ~~Except for types D16 and D17 as specified in R9-7-1306(C), (D), and (E),~~ each licensee or registrant shall submit payment of the annual fee in the amount prescribed in R9-7-1306(A) Table 13.1 on or before January 1 of each year. This single annual fee will cover any and all renewals, amendments, and regular inspections of the license during the forthcoming calendar year.
- C. If a licensee or registrant fails to pay the annual fee by January 1, the license is not current.
- D. If a licensee or registrant fails to pay the annual fee by April 1, the Department shall apply administrative sanction provisions of ~~9 A.A.C. 7, Article 12 of this Chapter.~~
- E. A licensee who is required to pay an annual fee under this Article may qualify as a small entity and pay the reduced annual fee in Table 13.2 if the licensee has the following characteristics:
 - 1. For a business not engaged in manufacturing or a not-for-profit organization, having a three-year average of gross annual receipts of \$6.5 million or less;
 - 2. For an entity engaged in manufacturing, having an annual average of no more than 500 employees;
 - 3. For a government jurisdiction, not including publicly supported educational institutions, having no more than 50,000 residents in the jurisdiction;
 - 4. For a publicly supported educational institution, having no more than 50,000 faculty, staff, and students; and
 - 5. For an educational institution that is not publicly supported, having no more than 500 faculty and staff.
- F. A licensee who seeks to establish status as a small entity for the purpose of paying an annual fee in Table 13.2, rather than the annual fee in Table 13.1, shall file with the Department a certification statement annually on Department Form 333, accessed through the Department website at <https://azdhs.gov/documents/licensing/radiation-regulatory/forms/ram-small-entity-form.pdf>, for each license under which the licensee is billed.
- G. ~~If a licensee qualifies as a small entity and provides the Department with proper the certification required in subsection (F) along with its annual fee payment, the licensee may pay the applicable reduced annual fees as fee shown in Table 1 to this Article 13.2. Failure to file a small entity certification, according to subsection (F), in a timely manner may result in the denial of any refund the licensee being required to pay the applicable fee in Table 13.1.~~

R9-7-1306. Table of Application Fees and Annual Fees

A. The application ~~fee and~~ or annual fee for each category and type ~~are~~ is shown in Table ~~13-1~~ 13.1.

Table 13-1

| Category | Type | Annual Fee |
|----------|--------------------------------|------------|
| A1 | Broad academic Class A | \$5,800 |
| A2 | Broad academic Class B | \$5,800 |
| A3 | Broad academic Class C | \$5,800 |
| A4 | Limited academic | \$1,000 |
| B1 | Broad medical | \$11,000 |
| B2 | Medical materials class A | \$1,900 |
| B3 | Medical materials class B | \$1,900 |
| B4 | Medical materials class C | \$1,900 |
| B5 | Medical teletherapy | \$5,200 |
| B6 | General medical | \$250 |
| C1 | Broad industrial class A | \$11,400 |
| C2 | Broad industrial class B | \$11,400 |
| C3 | Broad industrial class C | \$3,200 |
| C4 | Limited industrial | \$700 |
| C5 | Portable gauge | \$1,000 |
| C6 | Fixed gauge class A | \$1,000 |
| C7 | Fixed gauge class B | \$1,000 |
| C8 | Leak detector | \$1,330 |
| C9 | Gas chromatograph | \$1,000 |
| C10 | General industrial | No Fee |
| C11 | Industrial Radiography class A | \$5,500 |
| C12 | Industrial Radiography class B | \$5,500 |



| | | |
|-----|---|-----------|
| C13 | Open field irradiator | \$3,000 |
| C14 | Shelf shielded irradiator | \$1,500 |
| C15 | Well logging | \$2,000 |
| C16 | Research and development | \$2,100 |
| C17 | Laboratory | \$1,000 |
| D1 | Distribution | \$2,600 |
| D2 | Nuclear Pharmacy | \$4,600 |
| D3 | Nuclear laundry | \$10,300 |
| D4 | General industrial (with fee) | \$300 |
| D5 | General depleted uranium | \$200 |
| D6 | Veterinary medicine | \$1,000 |
| D7 | General veterinary medicine | \$200 |
| D8 | Health physics class A | \$3,200 |
| D9 | Health physics class B | \$1,000 |
| D10 | Secondary uranium recovery | \$5,100 |
| D11 | Low level radioactive waste disposal site | (3) |
| D12 | Waste processor class A | \$4,600 |
| D13 | Waste processor class B | \$3,600 |
| D14 | Additional storage and use site | (1) |
| D15 | Possession only | (2) |
| D16 | Reciprocal | (3) |
| D17 | Reserved | |
| D18 | Unclassified | Full Cost |
| D19 | NORM commercial disposal site | \$600,000 |
| E1 | X ray machine class A (per tube) | \$75 |
| E2 | X ray machine class B (per tube) | \$51 |
| E3 | X ray machine class C (per tube) | \$42 |
| E4 | Industrial radiation machine (per device) | \$42 |
| E5 | Accelerator facility | \$750 |
| E6 | Other ionizing radiation machine | Full cost |
| F1 | Tanning device (per device) | \$28 |
| F2 | Class A (1 to 10 laser devices) | \$175 |
| F3 | Class B (11 to 49 laser devices) | \$408 |
| F4 | Class C (50 or more laser devices) | \$699 |
| F5 | Laser light show or laser demonstration | \$408 |
| F6 | Medical laser (per laser device) | \$47 |
| F7 | Class II surgical (per device) | \$47 |
| F8 | Medical RF surgical and cosmetic (per device) | \$47 |
| F9 | Class A industrial (1 to 5 radiofrequency devices) | \$70 |
| F10 | Class B industrial (6 to 20 radiofrequency devices) | \$210 |
| F11 | Class C industrial (more than 20 radiofrequency devices) | \$349 |
| F12 | Class A medical (1 or 2 non-cosmetic radiofrequency devices) (per device) | \$0 |
| F13 | Class B medical (3 to 9 non-cosmetic radiofrequency devices) (per device) | \$0 |
| F14 | Class C medical (10 to 19 non-cosmetic radiofrequency devices) (per device) | \$0 |
| F15 | Class D medical (20 or more non-cosmetic radiofrequency devices) (per device) | \$0 |
| F16 | Other nonionizing radiation device or other device | Full Cost |

Notes:

- (1) An additional 30% of the annual base fee is added to the annual base fee for each additional site.
- (2) The fee is 50% of the annual base fee for the category under which the radioactive material will be stored.
- (3) See R9-7-1307.

- B.** The fee for a category D11 license, for a low-level radioactive waste disposal site, is \$6,000,000 for years one through five. Based on data gathered during the first five years, the Department shall set a reasonable fee after consideration of the following factors:
 1. Unrecovered costs that the Department may charge under A.R.S. § 30-654(B)(18), and
 2. Actual costs incurred by the Department in regulating the licensee.
- C.** The fee for a category D16 license, providing reciprocal recognition under R9-7-320 of a radioactive materials license issued by the NRC or another Agreement state, is half of the annual fee for an Arizona license of the appropriate category and type. If there is no Arizona license of the appropriate category and type, the Department shall assess the "Full Cost" fee according to subsection (D) or (E), as applicable. The fee is due and payable at the time reciprocity is requested, and the general license does not become current until the fee is paid.
- B.D.** The application fee for a licensee or registrant is the annual fee as shown in R9-7-1306. "Full Cost" for an application fee is based on professional personnel time for preparation, travel, onsite inspection, any reports, review of findings, and preparation of the license or registration or denial charged at \$99 per hour and mileage charged at 44.5¢ per mile. The Department shall assess the licensee or registrant 90% of the estimated full cost of issuing the license or registration. The Department will assess for any remaining costs when it is prepared to issue the license, registration, denial, or if Department costs for the requested activity exceed \$10,000.
- C.E.** The annual fee for a licensee or registrant for which the scheduled fee is "Full Cost" for an annual fee is based on professional personnel time for preparation, travel, onsite inspection, preparation of reports, review of findings, and preparation for any inspections or



completion of any amendments to the license, registration or denials charged at \$99 per hour and mileage charged at 44.5¢ per mile for the preceding 12 months.

Table 13.1. Table of Fees

| <u>Category</u> | <u>Type</u> | <u>Application/Annual Fee</u> |
|-----------------|--|---|
| A1 | Broad academic class A | \$10,000 |
| A2 | Broad academic class B | \$10,000 |
| A3 | Broad academic class C | \$10,000 |
| A4 | Limited academic | \$2,500 |
| B1 | Broad medical | \$20,000 |
| B2 | Medical materials class A | \$4,000 |
| B3 | Medical materials class B | \$4,000 |
| B4 | Medical materials class C | \$4,000 |
| B5 | Medical teletherapy | \$8,000 |
| B6 | General medical | \$500 |
| C1 | Broad industrial class A | \$20,000 |
| C2 | Broad industrial class B | \$20,000 |
| C3 | Broad industrial class C | \$6,000 |
| C4 | Limited industrial | \$1,500 |
| C5 | Portable gauge | \$2,000 |
| C6 | Fixed gauge class A | \$2,000 |
| C7 | Fixed gauge class B | \$2,000 |
| C8 | Leak detector | \$2,000 |
| C9 | Gas chromatograph | \$2,000 |
| C10 | General industrial | \$300 |
| C11 | Industrial radiography class A | \$10,000 |
| C12 | Industrial radiography class B | \$10,000 |
| C13 | Open field irradiator | \$10,000 |
| C14 | Shelf-shielded irradiator | \$5,000 |
| C15 | Well logging | \$5,000 |
| C16 | Research and development | \$5,000 |
| C17 | Laboratory | \$3,000 |
| D1 | Distribution | \$5,000 |
| D2 | Nuclear pharmacy | \$10,000 |
| D3 | Nuclear laundry | \$25,000 |
| D4 | General industrial gauging device | \$500 |
| D5 | General depleted uranium | \$200 |
| D6 | Veterinary medicine | \$2,000 |
| D7 | General veterinary medicine | \$500 |
| D8 | Health physics class A | \$5,000 |
| D9 | Health physics class B | \$3,000 |
| D10 | Secondary uranium recovery | \$8,000 |
| D11 | Low-level radioactive waste disposal facility | According to R9-7-1306(B) |
| D12 | Waste processor class A | \$10,000 |
| D13 | Waste processor class B | \$8,000 |
| D14 | Additional storage and use site | 30% of the applicable fee for each additional site |
| D15 | Possession-only | 50% of the applicable fee for the category under which storage will occur |
| D16 | Reciprocal | According to R9-7-1306(C) |
| D17 | Reserved | |
| D18 | Unclassified radioactive material | Full Cost, according to R9-7-1306(D) or (E) |
| D19 | NORM commercial disposal site | \$600,000 |
| E1 | X-ray machine class A (per tube) | \$195 |
| E2 | X-ray machine class B (per tube) | \$145 |
| E3 | X-ray machine class C (per tube) | \$95 |
| E4 | Industrial radiation machine (per device) | \$95 |
| E5 | Accelerator facility | \$2,500 |
| E6 | Other ionizing radiation machine | Full Cost, according to R9-7-1306(D) or (E) |
| F1 | Tanning device (per device) | \$50 |
| F2 | Class A laser (1 to 10 laser devices) | \$300 |
| F3 | Class B laser (11 to 49 laser devices) | \$600 |
| F4 | Class C laser (50 or more laser devices) | \$1,000 |
| F5 | Laser light show or laser demonstration | \$500 |
| F6 | Medical laser (per laser device) | \$100 |
| F7 | Class II surgical device (per device) | \$100 |
| F8 | Cosmetic radiofrequency device (per device) | \$100 |
| F9 | Class A industrial (1 to 5 radiofrequency devices) | \$150 |
| F10 | Class B industrial (6 to 20 radiofrequency devices) | \$350 |
| F11 | Class C industrial (more than 20 radiofrequency devices) | \$600 |
| F12 | Medical radiofrequency (one or more device) | \$100 |
| F13 | Other non-ionizing radiation device | Full Cost, according to R9-7-1306(D) or (E) |



R9-7-1307. Special License Fees Repealed

- A.** The fee for a Type D16 license providing reciprocal recognition under R9-7-320 of a radioactive materials license issued by the U.S. NRC or another state is half of the annual fee for an Arizona license of the appropriate type. The fee is due and payable at the time reciprocity is requested, and the general license does not become current until the fee is paid.
- B.** For a low-level radioactive waste disposal site the initial application fee is \$6,000,000. The annual fee for the second through fifth years is \$6,000,000. The Department shall promulgate a new fee rule for years subsequent to year five. Based on data gathered during the first five years, the Department shall set a reasonable fee after consideration of the following factors:
 1. Unrecovered costs which the Department may charge under A.R.S. § 30-654(B)(18).
 2. Actual costs incurred by the Department.

Table 1. Small Entity Fees[†] Repealed

Small Businesses Not Engaged in Manufacturing and Small Not for profit Organizations (Gross Annual Receipts, three year average):

| | |
|----------------------------|---------------------------------|
| >\$6.5 million | Pay the fee listed in R9-7-1306 |
| \$350,000 to \$6.5 million | \$2,200 |
| <\$350,000 | \$500 |

Manufacturing Entities that Have an Annual Average of 500 Employees or Less:

| | |
|---------------------|---------------------------------|
| >500 employees | Pay the fee listed in R9-7-1306 |
| 35 to 500 employees | \$2,200 |
| <35 employees | \$500 |

Small Government Jurisdictions (including publicly supported educational institutions) (Population in Jurisdiction):

| | |
|------------------|---------------------------------|
| >50,000 | Pay the fee listed in R9-7-1306 |
| 20,000 to 50,000 | \$2,200 |
| <20,000 | \$500 |

Educational Institutions that Are Not State or Publicly Supported, and Have 500 Employees or Less:

| | |
|---------------------|---------------------------------|
| >500 employees | Pay the fee listed in R9-7-1306 |
| 35 to 500 employees | \$2,200 |
| <35 employees | \$500 |

[†]A licensee who seeks to establish status as a small entity for the purpose of paying the annual fees required under R9-7-1304 as shown in R9-7-1306 must file a certification statement with the Department each year. The licensee must file the required certification on Department Form 333 for each license under which it was billed. Department Form 333 can be accessed through the Department website at <http://www.azdhs.gov/licensing/radiation/regulatory/index.php>. For licensees who cannot access the Department website, Department Form 333 may be obtained by writing to the Department or by telephoning the Department at (602) 255-4845.

Table 13.2. Small Entity Fees

| | |
|--|------------|
| <u>Licensee qualifying as a small entity under R9-7-1304(E)(1)</u> | |
| <u>Gross Annual Receipts</u> | <u>Fee</u> |
| \$350,000 to \$6.5 million | \$2,200 |
| <\$350,000 | \$500 |
| <u>Licensee qualifying as a small entity under R9-7-1304(E)(2)</u> | |
| <u>Number of Employees</u> | <u>Fee</u> |
| 35 to 500 employees | \$2,200 |
| <35 employees | \$500 |
| <u>Licensee qualifying as a small entity under R9-7-1304(E)(3)</u> | |
| <u>Number of Residents</u> | <u>Fee</u> |
| 20,000 to 50,000 | \$2,200 |
| <20,000 | \$500 |
| <u>Licensee qualifying as a small entity under R9-7-1304(E)(4)</u> | |
| <u>Number of Faculty, Staff, and Students</u> | <u>Fee</u> |
| 20,000 to 50,000 | \$2,200 |
| <20,000 | \$500 |
| <u>Licensee qualifying as a small entity under R9-7-1304(E)(5)</u> | |
| <u>Number of Faculty and Staff</u> | <u>Fee</u> |
| 35 to 500 employees | \$2,200 |
| <35 employees | \$500 |



NOTICE OF FINAL RULEMAKING
TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY
HAZARDOUS WASTE MANAGEMENT

[R20-196]

PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|---------------------------------|
| R18-8-260 | Amend |
| R18-8-261 | Amend |
| R18-8-262 | Amend |
| R18-8-263 | Amend |
| R18-8-264 | Amend |
| R18-8-265 | Amend |
| R18-8-266 | Amend |
| R18-8-268 | Amend |
| R18-8-270 | Amend |
| R18-8-271 | Amend |
| R18-8-273 | Amend |
| R18-8-280 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statutes (general) and the implementing statutes (specific):**
 Authorizing statutes: A.R.S. §§ 41-1003 and 49-104
 Implementing statute: A.R.S. § 49-922
- 3. The effective date of the rules:**
 November 3, 2020
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rules:**
 Notice of Rulemaking Docket Opening: 26 A.A.R. 318, February 21, 2020
 Notice of Proposed Rulemaking: 26 A.A.R. 1451, July 24, 2020
- 5. The agency's contact person who can answer questions about the rulemaking:**
 Name: Mark Lewandowski or Caitlin Caputo
 Address: Department of Environmental Quality
 Waste Programs Division
 1110 W. Washington St.
 Phoenix, AZ 85007
 Phone for Mark: (602) 771-2230
 Phone for Caitlin: (602) 771-4677
 Fax: (602) 771-4272
 E-mail: lewandowski.mark@azdeq.gov
- 6. The agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

Summary. The Arizona Department of Environmental Quality (ADEQ) has adopted changes to the state's hazardous waste (HW) rules to incorporate certain changes in federal regulations implementing Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). The amendments in this final rule adopt changes to federal regulations that were in effect as of July 1, 2020 and update the general incorporation date in Arizona HW rules from July 1, 2018 to July 1, 2020. ADEQ-initiated technical corrections are also included. EPA's 2008, 2015, and 2018 regulations relating to the definition of solid waste are incorporated by this rulemaking.

Background. Congress passed RCRA in 1976 to establish a national "cradle to grave" regulatory system to control the generation, transportation, treatment, storage, and disposal of HW. Similar to other national environmental laws, states are encouraged to assume most of the responsibility for the program and become "authorized" to implement RCRA and its underlying regulations. This process ensures national consistency and minimum standards while providing flexibility to states to implement the national standards with state and local solutions.

The federal requirements for state HW program authorization are found in 40 CFR 271. Federal HW regulations change from year to year, so states with authorization such as Arizona have a continuing obligation to revise their programs to keep up with federal changes and remain authorized states. (See 40 CFR 271.21(e)(1).)

Arizona's HW rules are found in 18 A.A.C. 8, Article 2 and have been in effect since 1984. EPA first granted "final" authorization to Arizona in 1985 to operate its HW program in Arizona in lieu of the federal HW program, subject to the limitations imposed by HSWA. (See 50 FR 47736, November 20, 1985.) EPA last authorized revisions to Arizona's HW program on December 21, 2017. (See 82 FR 60550.) Due to federal and Arizona requirements requiring equivalency with federal regulations, Arizona's HW rules incorporate the federal HW regulations by reference and are mostly identical to the federal regulations. (See 42 U.S.C. 6926(b) and



A.R.S. § 49-922(A)) ADEQ regularly compares Arizona's HW rules to the federal regulations and amends the Arizona rules as necessary to comply with state statutes and to facilitate continued authorization. Without continued authorization, EPA, rather than ADEQ, would administer the HW program in Arizona. ADEQ's primary objective with this rulemaking is to continue administering the federal HW program in Arizona in place of EPA. ADEQ believes that continued authorization is ensured by regular incorporation of the changes and additions to federal language into the Arizona rules.

Background to this Notice of Final Rulemaking. ADEQ's rulemaking process contained a significant amount of stakeholder dialogue before a formal proposed rule was drafted. From March through July, 2020, ADEQ posted informational documents on its website and held both a virtual public stakeholder meeting and a workshop on a pre-proposal draft rule and the federal regulations. The events were well attended and answered many early stakeholder questions, especially regarding the handling of hazardous secondary materials under EPA's Definition of Solid Waste rules. Only one comment was received after the proposed rule was published. It is discussed in Part 11.

Effective date of rule. In the proposed rule, ADEQ stated that it was considering requesting an immediate effective date pursuant to A.R.S. § 41-1032(A)(1) so that the airbag rule could become effective in Arizona as soon as possible. ADEQ also requested comment on whether an immediate effective date for the entire rulemaking might be burdensome for other sectors affected. ADEQ did not receive any comments that an immediate effective date would be burdensome. Due to the urgent public health issue posed by the recalled Takata airbag inflators that remain installed in Arizona vehicles, an immediate effective date was requested and approved. (See Part 7 of this preamble for further information.)

Subsections not amended listed as "No change". In the proposed rule and in this final rule, ADEQ used the option in A.A.C. R1-1-502(B)(18)(f) and R1-1-602(B)(6) to list most rule text subsections not amended by this rulemaking as "No change", rather than showing long sections of text that are not being changed. Occasionally, certain subsections of unchanged text are shown to provide context for nearby changes.

Incorporation date changed to July 1, 2020. As mentioned in the June 9, 2020 public meeting discussing a draft proposed rule, ADEQ changed the incorporation dates in the proposed rule to July 1, 2020. This will simplify the use of the printed versions of 40 CFR, which are effective as of July 1st of each year.

What EPA regulations has ADEQ incorporated into Arizona rules?

The following is a list of each EPA rule that altered federal HW regulations, effective as of July 1, 2020, that has been incorporated into Arizona rules.

- Revisions to the Definition of Solid Waste, 73 FR 64667, October 30, 2008.
- Definition of Solid Waste, 80 FR 1693, January 13, 2015.
- Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule, 83 FR 24664, May 30, 2018.
- Safe Management of Recalled Airbags, 83 FR 61552, November 30, 2018.
- Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, 84 FR 5816, February 22, 2019.
- Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations, 84 FR 67202, December 9, 2019.
- Address Change for Waste Import-Export Submittals from the Office of Federal Activities to the Office of Resource Conservation and Recovery, 83 FR 38263, August 6, 2018.

Descriptions of EPA regulations incorporated by reference

- The Definition of Solid Waste Rules, 73 FR 64668, October 30, 2008; 80 FR 1694, January 13, 2015; and 83 FR 24664, May 30, 2018. These three rulemakings updated and provided certainty in the area of legitimate recycling of hazardous secondary materials. EPA characterized the 2015 and 2018 rules as less stringent than previous federal rules for states not operating under the 2008 Definition of Solid Waste (DSW) rule, such as Arizona. The changes from these federal rules were only effective in Arizona after adopted as state rules. Together, the three federal rules amended 40 CFR 260, 261, and 270. ADEQ adopted the changes from these three rules so that the final incorporated language is identical to the July 1, 2020 versions of 40 CFR 260, 261, and 270, except where "Administrator" is changed to "Director", etc.
- Safe Management of Recalled Airbags, 83 FR 61552, November 30, 2018. EPA issued this interim final rule in response to the urgent public health issue posed by recalled Takata airbag inflators currently installed in vehicles. With the rule, EPA facilitated a more expedited removal of defective Takata airbag inflators from vehicles by dealerships, salvage yards, and other locations, and allowed for safe, environmentally sound disposal by exempting the collection of airbag waste from HW requirements, provided certain conditions were met. EPA characterized this rule as less stringent than previous federal rules and did not require it to be adopted by states for authorization. ADEQ has adopted EPA's airbags rule to address the urgent public health issue, and to avoid being more stringent than federal law. The changes from this federal rule were not effective in Arizona until adopted as state rules. The federal airbags rule amended 40 CFR 260, 261, and 262. ADEQ adopted this rule without change so that the final incorporated language would be identical to the July 1, 2020 versions of 40 CFR 260, 261, and 262, except where "Administrator" is changed to "Director", etc.
- Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, 84 FR 5816, February 22, 2019. This rule allowed healthcare facilities (for both humans and animals) and reverse distributors to manage their HW pharmaceuticals under a new set of sector-specific standards in lieu of the existing HW generator regulations. Additionally, EPA excluded certain U.S. Food and Drug Administration (FDA) approved over-the-counter (OTC) nicotine replacement therapies (NRTs) from regulation as HW, established a policy on the regulatory status of unsold retail items that are not pharmaceuticals and are managed via reverse logistics, prohibited the disposal of HW pharmaceuticals down the drain ("sewering"), and eliminated the dual regulation of RCRA HW pharmaceuticals that are Drug Enforcement Administration (DEA) controlled substances. EPA char-



acterized this rule, “[t]aken as a whole,” to be more stringent than previous federal rules; the more stringent rules are required to be adopted for authorization. ADEQ has adopted the more stringent parts of the pharmaceuticals rule for continued authorization and the less stringent parts so as not to be more stringent than federal law. Under this rule, no new facilities or substances are regulated within HW pharmaceuticals as compared to previous federal rules. Most of the changes from the pharmaceuticals rule were not effective in Arizona until adopted as state rules; however, the sewerage prohibition became effective on August 21, 2019. ADEQ has adopted the pharmaceuticals rule without change so that the final incorporated language is identical to the July 1, 2020 versions of 40 CFR 261, 262, 264, 265, 266, 268, 270, and 273, except where “EPA Regional Administrator” is changed to “Director”, etc.

- **Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations**, 84 FR 67202, December 9, 2019. In this rule, EPA added HW aerosol cans to the Universal Waste (UW) program and provided a clear, protective system for managing discarded aerosol cans. This change benefits a wide variety of establishments generating and managing HW aerosol cans, including the retail sector. The rule eases the regulatory burden on facilities that discard HW aerosol cans, promotes the collection and recycling of these cans, and encourages the development of municipal and commercial programs to reduce the quantity of these cans going to Municipal Solid Waste (MSW) landfills or incinerators. EPA characterized this rule as less stringent than previous federal rules and not required to be adopted for authorization. ADEQ has incorporated by reference EPA’s aerosol cans rule so as not to be more stringent than federal law. The changes in the aerosol cans rule were not effective in Arizona until adopted as state rules. ADEQ has adopted the federal aerosol cans rule without change so that the final incorporated language is identical to the July 1, 2020 versions of 40 CFR 260, 261, 264, 265, 268, 270, and 273.

- **Address Change for Waste Import-Export Submittals from the Office of Federal Activities to the Office of Resource Conservation and Recovery**, 83 FR 38263, August 6, 2018. This minor rule changed addresses for import and export purposes. ADEQ has adopted this rule without change as well.

What regulations are not being incorporated in this rule?

- **Standardized Permit Rule**, 70 FR 53419, September 8, 2005. In this rule, EPA finalized revisions to the RCRA HW permitting program to allow for a “standardized permit”. In past HW rulemakings, ADEQ has discussed but not proposed to incorporate EPA’s Standardized Permit rule. No facilities have thus far indicated an interest in a standardized permit. ADEQ has decided to maintain this position and not burden the HW rules with an extra set of procedures for a class of permits no one is interested in.

Technical corrections.

In R18-8-262(G), ADEQ has corrected an error from the last rulemaking, which required written logs from Small Quantity Generators (SQGs) but omitted Large Quantity Generators (LQGs). The correction adds LQGs back. In addition, ADEQ added 40 CFR 260.40 to the list in R18-8-260(F) since it is a companion section to 260.41, and added the phrase “modified by the following subsections” to R18-8-273(A).

How does the incorporation of the Definition of Solid Waste rules affect pre-2008 solid waste exclusions, or other prior solid waste determinations or variances?

To be equivalent to EPA’s regulations, ADEQ follows EPA’s regulatory text as well as certain interpretations in its preamble. EPA states at 80 FR 1735, “[t]he final rule does not supersede any of the pre-2008 solid waste exclusions or other prior solid waste determinations or variances, including determinations made in letters of interpretation and inspection reports. If a hazardous secondary material has been determined not to be a solid waste for whatever reason, such a determination remains in effect, unless the authorized state decides to revisit the regulatory determination under their current authority. In addition, if a hazardous secondary material has been excluded from HW regulations—for example, under the Bevill exclusion in 40 CFR 261.4(b)(7)—the regulatory status of that material will not be affected by today’s rule.” ADEQ agrees with EPA’s preamble language and confirms that ADEQ’s incorporation of the three Definition of Solid Waste Rules will not supersede any (1) pre-2008 solid waste exclusions, (2) prior solid waste determinations, including determination made in letters of interpretations and inspection reports, or (3) prior solid waste variances. ADEQ invites anyone operating under such a pre-2008 solid waste exclusion, or prior determination or variance who is seeking additional certainty to contact ADEQ directly.

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

ADEQ reviewed and proposed to rely on the following reports in its evaluation of the federal rules that it has incorporated by reference:

1. Update of the State of the Takata Airbag Recalls, January 23, 2020, available at https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/update_on_the_state_of_the_takata_airbag_recalls-012320-tag.pdf
2. The State of the Takata Airbag Recalls, November 15, 2017, available at https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/the_state_of_the_takata_airbag_recalls-report_of_the_independent_monitor_112217_v3_tag.pdf
3. Regulatory Impact Analysis: USEPA’s 2008 Final Rule Amendments to the Industrial Recycling Exclusions of the RCRA Definition of Solid Waste, September 25, 2008, EPA-HQ-RCRA-2002-0031-0602, available at <https://www.regulations.gov/document?D=EPA-HQ-RCRA-2002-0031-0602>
4. Regulatory Impact Analysis: EPA’s 2014 Revisions to the Industrial Recycling Exclusions of the RCRA Definition of Solid Waste, November 26, 2014, EPA-HQ-RCRA-2010-0742-0369, available at <https://www.regulations.gov/document?D=EPA-HQ-RCRA-2010-0742-0369>
5. Economic Assessment of the Safe Management of Recalled Airbags Interim Final Rule, October 2018, EPA-HQ-OLEM-2018-0646-0023, available at <https://www.regulations.gov/document?D=EPA-HQ-OLEM-2018-0646-0023>
6. Regulatory Impact Analysis of Proposed Rule to Add Aerosol Cans to the Universal Waste Rule, February 2018, EPA-HQ-



OLEM-2017-0463-0002, available at <https://www.regulations.gov/document?D=EPA-HQ-OLEM-2017-0463-0002>

7. Regulatory Impact Analysis for EPA’s Final Regulations for the Management of Hazardous Waste Pharmaceuticals, October 2018, EPA-HQ-RCRA-2007-0932-0412, available at <https://www.regulations.gov/document?D=EPA-HQ-RCRA-2007-0932-0412>

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

Not applicable

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

OVERVIEW:

Identification of the rulemaking: 18 A.A.C. 8, Article 2. (See Part 6 of this preamble.)

Program Description. Under A.R.S. § 49-922 and federal law, Arizona’s Hazardous Waste (HW) Program is responsible for ensuring that all regulated HW in Arizona is stored, transported, and disposed of safely and properly. The HW Program is largely a preventative program to keep HW from entering the environment. The program maintains an inventory of HW generators, transporters, and treatment, storage, and disposal (TSD) facilities in Arizona. It also provides permit modifications, renewals, closure plan reviews and approvals, and financial assurance reviews. Additionally, the program issues, manages, and maintains permits for TSD facilities. Generators, transporters, and TSD facilities are inspected periodically by the program. The ADEQ HW program also investigates complaints. Compliance and generator data is collected and stored by the HW program. The program tracks HW from generation to disposal, provides compliance assistance, pursues enforcement actions against significant violators, and oversees the remediation of contaminated sites. ADEQ is authorized by EPA to implement the federal HW program in Arizona in lieu of EPA. These activities are conducted according to a Memorandum of Agreement with EPA.

Among the almost 2,000 active facilities ADEQ’s HW Program regulates are metal platers, chemical manufacturers, laboratories, explosive and munitions manufacturers, pesticide manufacturers, HW TSD facilities, healthcare facilities, and military installations. There are currently 13 permitted TSD facilities, 348 LQGs, 616 SQGs, 859 Very Small Quantity Generators (VSQGs), and 132 HW transporters in Arizona. An unknown fraction of these are small businesses. ADEQ records indicate that volumes of HW in excess of 40,000 tons were generated in Arizona in 2017. Until June 30, 2018, ADEQ processed over 35,000 manifests tracking HW annually. ADEQ no longer processes these manifests as these manifests now go to EPA.

Cost/Benefit Analysis. In A.R.S. § 49-922(A), the legislature has given ADEQ twin directives regarding Arizona HW rules: 1) maintain program authorization by being consistent with and equivalent to the federal rules, even when changes to the federal rules make them more stringent than the previous federal rules, and 2) Arizona HW rules should not conflict with or be more stringent than EPA rules in nonprocedural areas.

These directives express the standing conclusion of the legislature that the impacts of incorporating all federal rules required for continued authorization will be less than the impact of not incorporating them and thereby having EPA implement the HW Program in Arizona. Under federal law, the adoption by states of new, more stringent federal rules is required for state authorization, although states may opt not to adopt those that are less stringent. Nonetheless, the less stringent federal rules must be adopted under ADEQ’s legislative mandate requiring that Arizona rules not be more stringent than corresponding federal rules. Thus, ADEQ incorporates almost all federal rules by reference. ADEQ provided a preliminary summary of the impacts of incorporating the federal rules in the proposed rule as an aid to regulated entities and others in understanding the proposed rule revisions. ADEQ requested input on the accuracy of that summary. No information on costs and impacts was provided to ADEQ by regulated entities. ADEQ has notified JLBC that it will not need to hire any new FTEs to implement this rule.

INCORPORATION BY REFERENCE:

Impact of individual EPA regulations incorporated by reference. There are six main federal regulations, spanning more than a decade, that were incorporated by this rule. For the purposes of determining economic impact, ADEQ considered the three rules related to the DSW as one rule because ADEQ incorporated only the changes that survived the three EPA rulemakings. The three DSW rules and each of the other rules affect different segments and activities of ADEQ’s HW community.

DEFINITION OF SOLID WASTE RULES:

Impact of Incorporating the DSW Rules. There are numerous parts of these three EPA rules that will affect various industrial facilities differently. In Arizona, industrial facilities are currently operating under pre-2008 DSW exclusions. Therefore, the net impact for Arizona facilities of incorporating the EPA DSW rules is the difference in total cost between complying with the pre-2008 DSW exclusions and complying with the post 2018 DSW rules. Some basic data can be obtained from EPA’s Regulatory Impact Analyses (RIAs) that accompanied the 2008 and 2015 EPA rules. However, ADEQ noted in the proposed rule that this data could be out of date and contained only national statistics. Due to these observations, ADEQ requested information from Arizona stakeholders on how these three incorporated rules may affect Arizona industries, facilities, and waste streams. The EPA estimate of the number of facilities affected nationally falls between 5,000 and 7,500. ADEQ assumed there is a proportional 1/50th share in Arizona, and estimated 100-150 affected facilities in Arizona. Based on the facility types in EPA’s estimates, those facilities are most likely also distributed in Arizona among manufacturing, waste treatment and disposal, and remediation and other waste management services. In the RIA for the 2008 rule, EPA estimated a national annual net cost savings of \$95.3 million (without discounted present value computations). In the RIA for the 2015 rule, EPA estimated a net cost savings of \$28 million (with a 7% discount rate). ADEQ received several positive and no negative comments regarding the adoption of EPA’s DSW rules.

EPA characterized three parts of their DSW rules as less stringent than previous federal rules: the revised generator controlled exclusion, the transfer based exclusion, and the remanufacturing exclusion. Other parts were characterized as more stringent, such as the revised definition of legitimacy and the prohibition of sham recycling, because they codify implicit requirements that previously existed only in guidance. Also more stringent are the additional recordkeeping requirement for speculative accumulation in



40 CFR 261.1(c)(8) and changes to the standards and criteria for variances from classification as a solid waste. ADEQ received no additional data from stakeholders so the cost-benefit analysis remains unchanged.

AIRBAGS RULE:

Impact of Incorporating the Airbags Rule. The national recalls of Takata airbag inflators are the largest and most complex in U.S. history. They are the result of enforcement actions originating with the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) and are not managed by EPA. The EPA Airbags rule that ADEQ is incorporating addresses this urgent public health issue and allows a more expedited removal of defective airbag inflators from vehicles by dealerships, salvage yards, and other locations. This rule also affects the storage and disposal of the inflators after removal by providing for safe and environmentally sound disposal by exempting the collection of airbag waste from HW requirements when certain conditions are met. The rule exempts "airbag handlers", such as dealerships, from counting airbag inflators toward their RCRA generator status.

ADEQ believes the exemption from HW requirements will result in savings for all airbag handlers. The new rule allows the waste management companies who receive the airbags from the automotive facilities to more easily transport stockpiled airbags to final waste termination facilities for ultimate disposal. ADEQ anticipates that some of the resulting savings will be passed on to the generators of this waste, primarily Arizona's 250-300 dealerships. ADEQ recognizes that reducing the regulatory burden on facilities that handle these airbags while maintaining minimal requirements will likely improve public safety. EPA's Economic Assessment of this rule estimated national savings for the 2019-2023 period to be between \$7.55 million and \$56.9 million, accounting for variation in enforcement scenarios.

AEROSOL CANS RULE:

Impact of Incorporating the Aerosol Cans Rule. The EPA's new rule adding HW aerosol cans to the Universal Waste (UW) rule aims to increase compliance and reduce the burden on generators of HW aerosol cans by allowing them to manage their aerosol can waste in a more efficient manner. The Household & Commercial Products Association (HCPA) stated to ADEQ in a June 9, 2020 letter, "The draft proposed rule incorporates flexibility for handlers of discarded waste aerosol cans and lessens the regulatory burden on the regulated community, allowing more aerosol cans that are properly discarded to be recycled. By incorporating the federal rule, ADEQ ensures that programs developed in Arizona can also be safely and universally implemented in other states so that waste handlers with multiple locations within the United States can have one consistent program to handle aerosol cans across multiple sites. For the reasons stated above, HCPA supports ADEQ's draft proposed rule to incorporate EPA's rule by reference." The new rule would omit aerosol cans entirely from consideration for a facility's RCRA generator status. This omission allows generators to be included in lower generator size categories and thereby reducing their expenses. Currently, generators do not have the option to treat aerosol cans as UW and so must treat them as HW. This new rule allows generators the flexibility to decide which treatment of aerosol cans makes the most financial sense for them. Due to the variation in generator category and volume—LQG, SQG, VSQG—generators could experience different levels of cost savings. For example, under this new rule, some generators could decrease to the VSQG level, which could allow them to reduce HW fees and dispose of aerosol cans in MSW landfills, thereby further reducing costs. The greatest share of impacted facilities will fall into the Retail and Manufacturing sectors. There will be some small cost of rule familiarization, but this cost is necessary to provide larger generator cost savings. Overall, the benefits of incorporating this rule by reference in Arizona are numerous while the costs are marginal. The net cost savings across all generators nationally is anticipated to be \$3-3.5 million. To maximize this benefit, ADEQ is prepared to exercise enforcement discretion to allow generators to use the new rule prior to its effective date.

HAZARDOUS WASTE PHARMACEUTICALS RULE:

Impact of Incorporating the Hazardous Waste Pharmaceuticals Rule. The EPA's HW pharmaceuticals rule re-categorizes several HWs so that the requirements become less stringent and therefore more attainable for facilities. There are no new categories of HW and no new facilities regulated under this rule. Overall, the rule should decrease the burden on facilities across Arizona and lead to cost savings. The EPA estimates as many as 1,103 facilities in Arizona may be subject to the rule change. Utilizing the nationwide breakdown of facility types, those Arizona facilities would likely be made up of Physician's Offices (31%), Dentist's Offices (18%), Supermarkets and Grocery Stores (9%), Pharmacies and Drug Stores (6%), Outpatient Care Centers (5%), Nursing Care Facilities (2%), and Hospitals (1%), among other facilities affected by this rule. Using the EPA estimates, the impacts of the new rule could lead to an incremental annualized cost savings across Arizona facilities of \$171,000 due to simpler training and \$100,000 due to the Nicotine exemption, if ADEQ assumes a proportional 1/50th share. Additionally, the new rule saves facilities money by imposing fewer requirements for labeling, record keeping, and manifesting and tracking. The new rule also decreases biennial reporting, further reducing expenditures. EPA found that certain increased costs will be offset by other cost savings. For example, the sewerage prohibition will necessitate more time spent on new paperwork for HW that has historically been seweraged by the facility, but excluding HW pharmaceuticals from generator categories under RCRA will decrease time spent on labeling and completion of Biennial Reports. EPA heard from stakeholders that controlled substances that qualify as HW under both EPA and DEA regulatory systems are expensive and difficult to manage, which results in these substances being seweraged to avoid the cost of conforming to both EPA and DEA requirements. The rule would remove the burden of dual competing regulation by harmonizing DEA and RCRA regulations for such substances. In addition, this rule is not anticipated to impact small businesses significantly. The EPA's Small Business Analysis found that each facility's annual costs incremental to baseline fall far below 1% of the average of annual revenues. It should be noted that EPA's definition of a small business is different than Arizona's and includes larger businesses. EPA estimated that this rule will result in a positive net impact on businesses of all sizes. ADEQ requested information on the economic impacts for facilities subject to the new pharmaceuticals rule but received no feedback from stakeholders.

TECHNICAL CHANGES:

Impact of Technical Changes. In R18-8-262(G), ADEQ added LQGs to the requirement to keep a log of required periodic inspections of storage areas. In the last rulemaking, ADEQ mistakenly required this log only for SQGs. ADEQ is aware that some LQGs



have recognized this omission and are already keeping logs for these inspections to facilitate compliance visits by ADEQ. For those that will begin or resume keeping these logs, this change will have minimal impact.

IMPACTS ON AGENCIES & SMALL BUSINESSES:

Reduction in Revenues to State Agencies. This rulemaking will have no quantifiable effect on state general fund revenues or on agencies other than ADEQ. No new fees are established and no existing fees are increased or reduced. Certain changes in what counts as HW and changes in generator status resulting from these rules could result in a reduction in revenue to ADEQ funds under A.R.S. §§ 49-929 and 49-931. ADEQ’s preliminary estimate is that the combined effect of the Aerosol Cans and HW Pharmaceuticals Rules in Arizona would be a reduction of generators by 39%, a reduction of 279.04 tons of HW, and a reduction of 3.17 tons of acutely toxic waste.

Reduction of Impact on Small Businesses. A.R.S. § 41-1035 requires state agencies to reduce the impact of a rulemaking on small businesses, if legal and feasible in meeting the statutory objectives of the rule. As discussed previously, ADEQ’s rules must be as stringent as EPA’s for ADEQ to be authorized to implement the HW program in Arizona. Under A.R.S. § 49-922(A), ADEQ may be more stringent than EPA in procedural areas. After the elimination of the annual report in the last rulemaking, ADEQ is not aware of any further procedural requirements where Arizona HW rules are more stringent than EPA that could be relaxed for small businesses. For similar reasons, the Department has determined there are no less intrusive or less costly methods of achieving the purposes of the rule.

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

ADEQ made a technical change by adding the phrase, “modified by the following subsections” to R18-8-273(A). No other changes were made to the rule.

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

ADEQ received several comments in support of this rule during informal rulemaking meetings from March to July, as well as questions about EPA’s preamble language and the identification of a typo. During the formal comment period after the rule was proposed, ADEQ received one comment which supported the rulemaking, but which also requested that ADEQ clarify and add language to the preamble to affirm the applicability of prior ADEQ regulatory determinations. ADEQ agreed with the comment and has added language to the last two sentences in the paragraph on pre-2008 determination in Part 6. ADEQ also added a paragraph to Part 6 to clarify documentation requirements.

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:

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:

See A.R.S. § 41-1037(A)(1) and (2). This rulemaking would amend an existing rule that requires a regulatory permit. This rulemaking does not require a general permit because:

- 1) A specific alternative permit is authorized by state statute under A.R.S. § 49-922(B)(5) and;
- 2) General permits as defined by A.R.S. § 41-1001 are not recognized under federal HW regulations with which ADEQ is required to be consistent.

However, it should be noted that ADEQ has already adopted a federal general permit rule that is similar to Arizona general permits. 40 CFR 270.60, “Permits by Rule”, applies to three types of facilities: 1) ocean disposal barges or vessels, 2) injection wells, and 3) publicly owned treatment works. Under the federal rule, these three types of facilities are “deemed to have a RCRA permit if the conditions listed are met”. Only the third category exists in Arizona and DEQ has incorporated the federal general permit rule for publicly owned treatment works in R18-2-270(A). It is important to note that the HW standardized permit, which is not incorporated in this rule, is not a general permit as defined by A.R.S. § 41-1001 since each standardized permit applies to just one facility.

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:

These rules are not more stringent than corresponding federal laws, except where there is statutory authority. Since EPA’s first authorization of Arizona’s HW program in 1985, Arizona rules have been more stringent than EPA rules in the areas of reports and manifests. (See 50 FR at 47736, November 20, 1985.) This was authorized under A.R.S. § 49-922(B), which states that ADEQ may not adopt a nonprocedural standard that is more stringent than EPA. Both of these more stringent procedural requirements were removed in the previous HW rulemaking.

c. Whether a person submitted an analysis to the agency regarding the rule’s impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No person has submitted a competitiveness analysis under A.R.S. § 41-1055(I).

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

| <u>Incorporated Federal Citation</u> | <u>Location</u> |
|--------------------------------------|-----------------|
| 40 CFR 260 | R18-8-260(C) |
| 40 CFR 261 | R18-8-261(A) |
| 40 CFR 262 | R18-8-262(A) |
| 40 CFR 263 | R18-8-263(A) |



| | |
|------------|--------------|
| 40 CFR 264 | R18-8-264(A) |
| 40 CFR 265 | R18-8-265(A) |
| 40 CFR 266 | R18-8-266(A) |
| 40 CFR 268 | R18-8-268 |
| 40 CFR 270 | R18-8-270(A) |
| 40 CFR 124 | R18-8-271(A) |
| 40 CFR 273 | R18-8-273(A) |

14. Whether the rule was previously made, amended, or repealed as an emergency rules. 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:

The rule was not previously made as an emergency rule.

15. The full text of the rules follows:

**TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY
HAZARDOUS WASTE MANAGEMENT**

ARTICLE 2. HAZARDOUS WASTES

Section

- R18-8-260. Hazardous Waste Management System: General
- R18-8-261. Identification and Listing of Hazardous Waste
- R18-8-262. Standards Applicable to Generators of Hazardous Waste
- R18-8-263. Standards Applicable to Transporters of Hazardous Waste
- R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities
- R18-8-268. Land Disposal Restrictions
- R18-8-270. Hazardous Waste Permit Program
- R18-8-271. Procedures for Permit Administration
- R18-8-273. Standards for Universal Waste Management
- R18-8-280. Compliance

ARTICLE 2. HAZARDOUS WASTES

R18-8-260. Hazardous Waste Management System: General

- A. All Federal regulations cited in this Article are those revised as of July 1, ~~2018~~ 2020 (and no future editions), unless otherwise noted, and are applicable only as incorporated by this Article. 40 CFR 124, 260 through 266, 268, 270 and 273 or portions of these regulations, are incorporated by reference, as noted in the text. Federal statutes and regulations that are cited within 40 CFR 124, 260 through 270, and 273 that are not incorporated by reference may be used as guidance in interpreting federal regulatory language.
- B. No change
- C. All of 40 CFR 260, revised as of ~~July 1, 2018~~ July 1, 2020 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the Department of Environmental Quality (DEQ) with the exception of the following:
 - 1. 40 CFR 260.1(b)(4) through (6), 260.20(a), 260.21, 260.22, 260.30, 260.31, 260.32, and 260.33; and
 - 2. The revisions to standardized permits as published at 70 FR 53419; and
 - 3. ~~The revisions to the solid waste definition as published at 73 FR 64668, 80 FR 1694, and 83 FR 24664.~~ Copies of 40 CFR 260 are available at <https://www.eCFR.gov>. Copies of the Federal Register (FR) are available at <https://www.federalregister.gov/>.
- D. No change
 - 1. No change
 - 2. No change
 - a. No change
 - i. No change
 - ii. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - c. No change
 - i. No change
 - ii. No change
 - iii. No change
 - d. No change
 - i. No change
 - ii. No change



- iii. No change
 - e. No change
 - i. No change
 - ii. No change
 - iii. No change
 - f. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
- E. § 260.10, titled “Definitions,” is amended by adding all definitions from § 270.2 to this Section, including the following changes, applicable throughout this Article unless specified otherwise:
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. [“Department of Transportation” or “DOT” means the U.S. Department of Transportation.]
 - 8. No change
 - 9. No change
 - 10. No change
 - 11. [“EPA,” “Environmental Protection Agency,” “United States Environmental Protection Agency,” “U.S. EPA,” “EPA HQ,” “EPA Regions,” and “Agency” mean the DEQ with the following exceptions:
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - i. References in §§ ~~260.2(d)~~ 260.1(b);
 260.2(d);
 260.4(a)(4);
 260.10 (definitions of “Administrator,” “EPA region,” “Federal agency,” “Person,” and “Regional Administrator”);
 260.11(a);
 260.34;
 261, Appendix IX;
 261.39(a)(5);
 261.41;
 261.4(a)(24), but in § 261.24(a)(24)(v)(B)(2), “EPA” means “DEQ”;
 261.4(a)(25);
 262.21;
 262.24(a)(3);
 262.25;
 262.32(b);
 Part 262, subpart H; 263.10(a) Note;
 264.12(a)(2), 264.71(a)(3), 264.71(d), 265.12(a)(2), 265.71(a)(3), 265.71(d);
 268.1(e)(3);
 268.5, 268.6, 268.42(b), and 268.44, which are nondelegable to the state of Arizona; 270.1(a)(1);
 270.1(b);
 270.2 (definitions of “Administrator,” “Approved program or Approved state,” “Director,” “Environmental Protection Agency,” “EPA,” “Final authorization,” “Permit,” “Person,” “Regional Administrator,” and “State/EPA agreement”);
 270.3;
 270.5;
 270.10(e)(1) through (2);
 270.11(a)(3);
 270.32(a) and (c); 270.51;
 270.72(a)(5) and (b)(5);
 273.32(a)(3);
 124.1(f);
 124.5(d);
 124.6(e); 124.10(c)(1)(ii); and 124.13.]
 - 12. No change



13. No change
 14. No change
 15. No change
 16. No change
 17. No change
 18. No change
 19. No change
 20. No change
 21. No change
 - a. No change
 - b. No change
 22. No change
 23. No change
 24. No change
 25. No change
 26. No change
 27. No change
 28. No change
 29. No change
 30. No change
 31. No change
 32. No change
 32. No change
- F. § 260.10, titled “Definitions,” as amended by subsection (E) also is amended as follows, with all definitions in § 260.10, applicable throughout this Article unless specified otherwise.
1. No change
 2. “Administrator,” “Regional Administrator,” “EPA Regional Administrator,” “state Director,” or “Assistant Administrator for Solid Waste and Emergency Response” mean the [Director or the Director’s authorized representative, except in §§:
 - 260.10, in the definitions of “Administrator,” “AES filing compliance date”, “Electronic import-export reporting compliance date”, “Regional Administrator,” and “hazardous waste constituent”;
 - 260.20
 - 260.40
 - 260.41;
 - ~~261.41;~~
 - 261, Appendix IX;
 - 262.11(c);
 - 262.41;
 - ~~262.42;~~
 - 262.43;
 - 262, Subpart H; 264.12(a);
 - 264.71;
 - 265.12(a);
 - 265.71;
 - 268.2(j);
 - 268.5, 268.6, 268.42(b), and 268.44, which are nondelegable to the state of Arizona; 270.2, in the definitions of “Administrator”, “Director”, “Major facility”, “Regional Administrator”, and “State/EPA agreement”;
 - 270.3;
 - 270.5;
 - 270.10(e)(1), (2), and (4);
 - 270.10(f) and (g);
 - 270.11(a)(3);
 - 270.14(b)(20);
 - 270.32(b)(2);
 - 270.51;
 - 124.5(d);
 - 124.6(e);
 - 124.10(b)].
 3. “Facility” [or “activity” means:
 - [a]. Any HWM facility or other facility or activity, including] all contiguous land, and structures, other appurtenances, and improvements on the land [which are] used for treating, storing, or disposing of hazardous waste, [that is subject to regulation under the HWMA program] or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units ([that is], one or more landfills, surface impoundments, or combinations of them).
 - [b]. For the ~~purposes~~ purpose of implementing corrective action under 40 CFR 264.101, all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective action under RCRA Section 3008(h).



- [c]. Notwithstanding paragraph ([b]) of this definition, a remediation waste management site is not a facility that is subject to 40 CFR 264.101, but is subject to corrective action requirements if the site is located within such a facility.
- 4. No change
- 5. No change
- 6. No change
- 7. “United States” or “U.S.” means [Arizona except for the following:
 - a. No change
 - b. §§ 261.4(a)(23) and 261.4(a)(25).
 - bc. No change
 - ed. No change
 - e. § 262.14(a)(5).
 - df. No change
 - eg. No change
 - fh. No change
- G. No change
- H. No change
- I. § 260.30, titled “Non-waste determinations and variances from classification as a solid waste,” is replaced by the following: Any person wishing to submit a variance petition shall submit the petition, under this subsection, to the EPA. Where the administrator of EPA has granted a variance from classification as a solid waste under 40 CFR 260.30, 260.31, ~~and 260.33,~~ and 260.34, the director shall accept the determination, if the director determines the action is consistent with the policies and purposes of the HWMA.
- J. No change
- K. No change
- L. As required by A.R.S. § 49-929, generators and transporters of hazardous waste shall register annually with DEQ and submit the appropriate registration fee, prescribed below, with their registration. ~~After the effective date of this rule, all registrations~~ Registration shall be done through DEQ’s myDEQ portal. For registration, go to <http://www.azdeq.gov/mydeq>.
 - 1. A hazardous waste transporter that picks up or delivers hazardous waste in Arizona shall pay \$200 by March 1 of the year following the date of the pick-up or delivery;
 - 2. A large-quantity generator that generated 1,000 kilograms or more of hazardous waste in any month of the previous calendar year shall pay \$300; or
 - 3. A small-quantity generator that generated 100 kilograms or more but less than 1,000 kilograms of hazardous waste in any month of the previous year shall pay \$100.
- M. A person shall pay hazardous waste generation and disposal fees as required under A.R.S. § 49-931. The DEQ shall send an invoice to large-quantity generators quarterly and small-quantity generators, including very small quantity generators who become a small quantity generator due to an episodic event, annually. The person shall pay an invoice within 30 days of the postmark on the invoice. The following hazardous waste fees shall apply:
 - 1. A person who generates hazardous waste that is shipped offsite shall pay \$67.50 per ton but not more than \$200,000 per generator site per year of hazardous waste generated;
 - 2. An owner or operator of a facility that disposes of hazardous waste shall pay \$270 per ton but not more than \$5,000,000 per disposal site per year of hazardous waste disposed; and
 - 3. A person who generates hazardous waste that is retained onsite for disposal or that is shipped offsite for disposal to a facility that is owned and operated by that generator shall pay \$27 per ton but not more than \$160,000 per generator site per year of hazardous waste disposed.

R18-8-261. Identification and Listing of Hazardous Waste

- A. All of 40 CFR 261 and accompanying appendices, revised as of ~~July 1, 2018~~ July 1, 2020 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ with the exception of the following:
 - 1. No change
 - 2. ~~The revisions to the solid waste definition as published at 73 FR 64668, 80 FR 1694, and 83 FR 24664~~ 40 CFR §§ 261.149, 261.400(a), 261.400(b), 261.410(e), 261.410(f), 261.411, and 261.420; Copies of 40 CFR 261 are available at <https://www.eCFR.gov>. Copies of the Federal Register (FR) are available at <https://www.federalregister.gov/>.
- B. In the above-adopted federal regulations “~~Section section~~ section 1004(5) of RCRA” or “~~Section section~~ section 1004(5) of the Act” means A.R.S. § 49-921(5).
- C. No change
- D. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. Notwithstanding the definitions of “EPA” and “EPA Regional Administrator” in R18-8-260(E)(11) and (F)(2):
 - 1. In § 261.151(g), the third sentence is replaced by the following: “If the facilities covered by the mechanism are in more than one State, identical evidence of financial assurance must be submitted to and maintained with each state agency regulating hazardous waste or with the appropriate Regional Administrator if a facility is located in an unauthorized State.”
 - 2. § 261.151 is amended by adding at the end: “Whenever this section requires that the owner or operator of a reclamation or intermediate facility notify several Regional Administrators of their financial obligations, the notice shall be to both DEQ and all



Regional Administrators of the United States Environmental Protection Agency of Regions that are affected by the owner or operator's financial assurance mechanisms.”

R18-8-262. Standards Applicable to Generators of Hazardous Waste

- A. All of 40 CFR 262, revised as of ~~July 1, 2018~~ July 1, 2020 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 262 are available at <https://www.eCFR.gov>.
- B. No change
1. No change
 2. No change
 3. No change
- C. No change
- D. No change
- E. No change
- F. No change
- G. Any generator who must comply with 40 CFR 262.16 ~~or 262.17~~ shall keep a written log of the inspections of container, tank, drip pad, and containment building areas and for the containers, tanks, and other equipment located in these storage areas in accordance with 40 CFR 265.174, 265.195, 265.444, and 265.1101(c)(4). The inspection log shall be kept by the generator for three years from the date of the inspection. The generator shall ensure that the inspection log is filled in after each inspection and includes the following information: inspection date, inspector's name and signature, and remarks or corrections.
- H. No change
- I. No change
- J. No change
- K. No change
- L. No change
- M. No change

R18-8-263. Standards Applicable to Transporters of Hazardous Waste

- A. All of 40 CFR 263, revised as of July 1, ~~2018~~ 2020 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 263 are available at <https://www.eCFR.gov>.
- B. No change
- C. No change

R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

- A. All of 40 CFR 264 and accompanying appendices, revised as of ~~July 1, 2018~~ July 1, 2020 (and no future editions), with the exception of §§ 264.1(d) and (f), 264.149, 264.150, and 264.301(l), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 264 are available at <https://www.eCFR.gov>.
- B. § 264.1, titled “Purpose, scope and applicability,” paragraph (g)(1) is amended as follows:
- (1) The owner or operator of a facility [with operational approval from the Director] to manage [public, private,] municipal or industrial solid waste [pursuant to R18-13-312, A.R.S. §§ 49-104 and 49-762], if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under [R18-8-264] pursuant to § 262.14;
- C. No change
- D. No change:
1. No change
 2. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. No change
- K. No change
- L. No change
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
- M. No change
- N. No change

R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

- A. All of 40 CFR 265 and accompanying appendices, revised as of ~~July 1, 2018~~ July 1, 2020 (and no future editions), with the exception of §§ 265.1(c)(2), 265.1(c)(4), 265.149, 265.150, and 265.430, is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 265 are available at <https://www.eCFR.gov>.
- B. § 265.1, titled “Purpose, scope, and applicability,” paragraph (c)(5) is amended as follows:



(5) The owner or operator of a facility [with operational approval from the Director] to manage [public, private,] municipal or industrial solid waste [pursuant to R18-13-312, A.R.S. §§ 49-104 and 49-762], if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under ~~[R18-8-265, pursuant to § 261.5];~~

- C. No changes
- D. No change
 - 1. No change
 - 2. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
 - 1. No change
- J. No change
- K. No change
 - 1. No change
 - 2. No change
 - 3. No change

R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities

- A. All of 40 CFR 266 and accompanying appendices, revised as of ~~July 1, 2018~~ July 1, 2020 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 266 are available at <https://www.eCFR.gov>.
- B. § 266.100, titled “Applicability” paragraph (c) is amended as follows:
 - (c) The following hazardous wastes and facilities are not subject to regulation under this subpart:
 - (1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in subpart C of part 261 of this chapter. Such used oil is subject to regulation under [A.R.S. §§ 49-801 through 49-818] ~~rather than this subpart;~~
 - (2) Gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery;
 - (3) Hazardous wastes that are exempt from regulation under §§ 261.4 and 261.6(a)(3)(iii) and (iv) of this chapter, and hazardous wastes that are subject to the special requirements for [very] small quantity generators under [§§ 262.13 and 262.14] of this chapter; and
 - (4) Coke ovens, if the only hazardous waste burned is EPA Hazardous Waste No. K087, decanter tank tar sludge from coking operations.
- C. No change

R18-8-268. Land Disposal Restrictions

All of 40 CFR 268 and accompanying appendices, revised as of ~~July 1, 2018~~ July 1, 2020 (and no future editions), with the exception of Part 268, Subpart B, is incorporated by reference and on file with the DEQ. Copies of 40 CFR 268 are available at <https://www.eCFR.gov>.

R18-8-270. Hazardous Waste Permit Program

- A. All of 40 CFR 270 and the accompanying appendices, revised as of ~~July 1, 2018~~ July 1, 2020 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ with the exception of the following:
 - 1. §§ 270.1(a), 270.1(c)(1)(i), 270.3, 270.10(g)(1)(i), 270.60(a) and (b), and 270.64; and
 - 2. The revisions for standardized permits as published at 70 FR 53419;
 - 3. ~~The revisions to the solid waste definition as published at 73 FR 64668, 80 FR 1694, and 83 FR 24664.~~ Copies of 40 CFR 270 are available at <https://www.eCFR.gov>. Copies of the Federal Register are available at <https://www.federalregister.gov>.
- B. § 270.1, titled “Purpose and scope of these regulations,” paragraph (b) is replaced by the following:
 - 1. [After the effective date of these regulations the treatment, storage, or disposal of any hazardous waste is prohibited except as follows:
 - a. As allowed under § 270.1(c)(2) and (3);
 - b. Under the conditions of a permit issued pursuant to these regulations; or
 - c. At an existing facility accorded interim status under the provisions of § 270.70.
 - 2. ~~The direct disposal or discharge of hazardous waste into or onto any of the following is prohibited:~~
 - a. ~~Waters of the state as defined in A.R.S. § 49-201, excluding surface impoundments as defined in § 260.10; and~~
 - b. ~~Injection well, ditch, alleyway, storm drain, leachfield, or roadway.]~~
 - e. ~~At an existing facility accorded interim status under the provisions of § 270.70 (as incorporated by R18-8-270).~~

The direct disposal or discharge of hazardous waste into or onto any of the following is prohibited:

 - a. Waters of the state as defined in A.R.S. § 49-201, excluding surface impoundments as defined in § 260.10 ~~(as incorporated by R18-8-260); and~~
 - b. Injection well, ditch, alleyway, storm drain, leachfield, or roadway.]
- C. No change
- D. No change
- E. No change
- F. No change
- G. No change
 - 1. No change



- 2. No change
 - a. No change
 - b. No change
 - c. No change
- 3. No change
- 4. No change
- 5. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - c. No change
 - d. No change
- 6. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - vi. No change
 - vii. No change
 - viii. No change
 - ix. No change
 - c. No change
- 7. No change
 - a. No change
 - b. No change
- 8. No change
- 9. No change
- H.** No change
- I.** No change
- J.** § 270.14, titled “Contents of Part B: General requirements,” paragraph (b) is amended by adding the following:
 - [(23) Any additional information required by the DEQ to evaluate compliance with facility standards and informational requirements of R18-8-264 and R18-8-270.
 - (24)(i) A signed statement, submitted on a form supplied by the DEQ that demonstrates:
 - (A) An individual owner or operator has sufficient reliability, expertise, integrity and competence to operate a HWM facility, and has not been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the five years before the date of the permit application; or
 - (B) In the case of a corporation or business entity, no officer, director, partner, key employee, other person, or business entity who holds 10% or more of the equity or debt liability has been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the five years before the date of the permit application.
 - (ii) Failure to comply with subsection (i), the requirements of A.R.S. § 49-922(C)(1), and the requirements of § 270.43 and §§ 124.3(d) and 124.5(a), may cause the Director to refuse to issue a permit to a TSD facility pursuant to A.R.S. § 49-922(C) as amended, including requirements in § 270.43 and §§ 124.3(d) and 124.5(a).]
- K.** No change
- L.** No change
- M.** No change
- N.** No change
- O.** No change
- P.** No change
- Q.** No change
- R.** No change
- S.** No change
- T.** No change
- U.** No change

R18-8-271. Procedures for Permit Administration

- A.** All of 40 CFR 124, revised as of July 1, ~~2018~~ 2020 (and no future editions), with the exception of §§ 124.1 (b) through (e), 124.2, 124.4, 124.16, 124.20, 124.21, and subparts C, D, and G, and with the exception of the revisions for standardized permits as published at 70 FR 53419, is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 124 are available at <https://www.eCFR.gov>. Copies of the Federal Register are available at <https://www.federalregister.gov>.
- B.** No change
- C.** No change
- D.** No change



- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. No change
- K. No change
- L. No change
- M. No change
- N. No change
- O. No change
- P. No change
- Q. No change
- R. No change
- S. No change
- T. No change

R18-8-273. Standards for Universal Waste Management

- A. All of 40 CFR 273, revised as of ~~July 1, 2018~~ July 1, 2020 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 273 are available at <https://www.eCFR.gov>.
- B. No change
- C. No change

R18-8-280. Compliance

- A. Inspection and entry. For purposes of ensuring compliance with the provisions of HWMA, any person who generates, stores, treats, transports, disposes of, or otherwise handles hazardous wastes, including used oil that may be classified as hazardous waste pursuant to A.R.S. Title 49, Chapter 4, Article 7, and hazardous secondary materials, shall, upon request of any officer, employee, or representative of the DEQ duly designated by the Director, furnish information pertaining to such wastes and permit such person at reasonable times:
 - 1. To enter any establishment or other place maintained by such person where ~~hazardous~~ such wastes are or have been generated, stored, treated, disposed, or transported from;
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
- B. No change
- C. No change
- D. No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change



NOTICES OF FINAL EXPEDITED RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Final Expedited Rulemaking. The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the expedited rules should be addressed to the agency promulgating the rules. Refer to Item #5 to contact the person charged with the rulemaking.

**NOTICE OF FINAL EXPEDITED RULEMAKING
TITLE 7. EDUCATION
CHAPTER 6. SCHOOL FACILITIES BOARD**

[R20-197]

PREAMBLE

| <u>1. Article, Part or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|---------------------------------|
| R7-6-101 | Amend |
| R7-6-201 | Amend |
| R7-6-205 | Amend |
| R7-6-210 | Amend |
| R7-6-211 | Amend |
| R7-6-212 | Amend |
| R7-6-213 | Amend |
| R7-6-214 | Amend |
| R7-6-215 | Amend |
| R7-6-216 | Repeal |
| R7-6-216 | New Section |
| R7-6-220 | Amend |
| R7-6-221 | Amend |
| R7-6-225 | Amend |
| R7-6-226 | Amend |
| R7-6-227 | Amend |
| R7-6-230 | Amend |
| R7-6-235 | Amend |
| R7-6-245 | Amend |
| R7-6-246 | Amend |
| R7-6-247 | Amend |
| R7-6-248 | Repeal |
| R7-6-249 | Amend |
| R7-6-250 | Amend |
| R7-6-251 | Amend |
| R7-6-255 | Amend |
| R7-6-256 | Amend |
| R7-6-258 | Amend |
| R7-6-261 | Amend |
| R7-6-265 | Amend |
| R7-6-270 | Amend |
| R7-6-271 | Amend |
| R7-6-285 | Amend |
| R7-6-701 | Amend |
| R7-6-705 | Repeal |
| R7-6-710 | Amend |
| R7-6-711 | Amend |
| R7-6-712 | Repeal |
| R7-6-713 | Repeal |
| R7-6-714 | Amend |
| R7-6-715 | Repeal |
| R7-6-716 | Repeal |
| R7-6-719 | Amend |
| R7-6-720 | Repeal |



| | |
|----------|--------|
| R7-6-721 | Amend |
| R7-6-725 | Repeal |
| R7-6-726 | Repeal |
| R7-6-727 | Repeal |
| R7-6-730 | Repeal |
| R7-6-735 | Repeal |
| R7-6-740 | Repeal |
| R7-6-745 | Repeal |
| R7-6-746 | Repeal |
| R7-6-747 | Repeal |
| R7-6-748 | Repeal |
| R7-6-749 | Repeal |
| R7-6-750 | Amend |
| R7-6-751 | Repeal |
| R7-6-755 | Repeal |
| R7-6-756 | Amend |
| R7-6-757 | Repeal |
| R7-6-758 | Amend |
| R7-6-760 | Repeal |
| R7-6-761 | Repeal |
| R7-6-765 | Repeal |
| R7-6-770 | Repeal |
| R7-6-771 | Repeal |
| R7-6-780 | Amend |
| R7-6-781 | Amend |
| R7-6-782 | Amend |
| R7-6-783 | Repeal |
| R7-6-790 | Repeal |

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. §§ 15-2002(A)(11) and 15-2011(F)
Implementing statute: A.R.S. §§ A.R.S. § 15-2002(A)(11) and 15-2011(F)

3. The effective date of the rule:

November 3, 2020

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

Notice of Rulemaking Docket Opening: 25 A.A.R. 1740, July 5, 2019
Notice of Proposed Expedited Rulemaking: 26 A.A.R. 1363, July 10, 2020

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

Name: Nick Loper, Executive Consultant
Address: 100 N. 15th Ave., Suite 103
Phoenix, AZ 85007
Telephone: (602) 620-4868
E-mail: nick.loper@azdoa.gov
Web site: <https://sfb.az.gov>

6. An agency's explanation why the proposed expedited rule should be made, amended, repealed, or renumbered under A.R.S. § 41-1027(A) and why expedited proceedings are justified under A.R.S. § 41-1001(16)(c):

The rules of the School Facilities Board were made in 2001. During the intervening years, the rules have become inconsistent with current industry standards and Board practice, technological changes, and best practices regarding education. The rules are being updated to address these issues and others identified in a five-year-review report approved by the Council on August 4, 2020.

Under A.R.S. § 41-1027(A)(3) and (6), the Board is authorized to conduct an expedited rulemaking because the rulemaking does not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated by the rules. The rulemaking also corrects typographical errors, clarifies language without changing its effect, and repeals redundant rules unnecessary for the operation of state government.

An exemption from Executive Order 2017-02 was provided for this rulemaking by Dawn Wallace, Director of the Governor's Office of Education, on August 24, 2017.

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

The Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking.



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:

Under A.R.S. § 41-1055(D)(2), the Board is not required to prepare an economic, small business, and consumer impact statement.

10. A description of any changes between the proposed expedited rulemaking, including supplemental notices, and the final expedited rulemaking:

Changes between the proposed and final expedited rulemaking include those identified in item 11:

- R7-6-201: This Section was amended to clarify its intent.
- R7-6-202: This Section was removed from the rulemaking.
- R7-6-213(B): Corrected a typographical error.
- R7-6-221: Deleted the term “VCR.”
- R7-6-240: Was removed from the rulemaking.
- R7-6-260: This Section was removed from the rulemaking.

Additionally, the Board made minor edits to R7-6-246(A)(6) and (B)(2); R7-6-247(B); R7-6-250 and R7-6-750 (a word was removed from the Section headings; conforming changes were made in the Table of Contents); R7-6-256; and R7-6-258.

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

The Board received written comments from eight individuals before the close-of-record date on July 21, 2020, following an oral proceeding. Those who commented are:

- Caroline Lobo (Suoll Architects);
- Dale Ponder (Crane Schools);
- Greg Gilliam (Glendale Elementary School District #40);
- Marlene Imirzian (Marlene Imirzian & Associates, Architects);
- John Bendor (Osborn Maledon);
- Paul Bakalis (Proteus West);
- Robert Dalager (Public Policy Partners)
- Mark Davenport (SPS+ Architects LLP); and
- Carmen Wyckoff (DLR Group).

The Board thanks those who made time to review the NEPR and comment. The comments and the Board’s analysis and response follow:

| COMMENT | ANALYSIS | RESPONSE |
|---|---|-----------|
| Recommends the Board have the rules vetted by a team of experts similar to the MAG stakeholders group that made recommendations earlier this year. The rules in their current form do not serve students well. The proposed rules do not address issues discussed in the MAG stakeholder meetings. Urges the Board to reconvene the MAG stakeholders group for further input. (Lobo; Imirzian; Bendor; Bakalis) | The Board appreciates the input made by the MAG stakeholders group. Under statute (See A.R.S. § 41-1027(A)), this expedited rulemaking cannot include any provision that increases the cost of regulatory compliance. As a result, many of the suggestions of the stakeholder group could not be included in this rulemaking. The Board intends to address the suggestions in the regular rulemaking that will begin very soon. | No change |
| The proposed changes have not been the subject of a public hearing process, Board study, or Board action. (Bendor) | The Board held multiple stakeholder meetings in 2019 to collect public input. There was a 30-day public comment period following posting the proposed rules on the Board’s website and an oral proceeding. The Board will review the rules at a meeting on August 5, 2020, to which the public is invited. Following this final review, the Board will vote to approve the NEFR during an open meeting. | No change |



| | | |
|--|---|---|
| <p>R7-6-201: The rules appear to be limited in applicability to newly constructed schools and primary building renewal projects. It is unclear what this means and what rules would apply to earlier-constructed schools. (Bendor; Dalager)</p> <p>This Section shifts the guidelines from minimum adequacy standards to construction standards. It leaves no vehicle for awarding statutorily prescribed building renewal grant projects. No previously constructed facility would be required to comply with the guidelines. Is the intent to leave the Board without guidelines to use in evaluation building renewal grant projects? (Dalager)</p> | <p>That is a grandfathering provision. The rules as they existed when a school facility was build would apply to earlier-constructed schools except if the earlier-constructed school engaged in a primary building renewal project or purchased necessary equipment.</p> <p>The Section clearly says it applies to primary building renewal projects. Any new construction, primary building renewal project, or purchase of necessary equipment would have to comply with the new guidelines.</p> | <p>Because questions were raised about this Section, the Board amended it to clarify its intent.</p> |
| <p>The rules maintain existing language regarding security. Because of school shootings and other safety issues, additional guidelines regarding security are needed. (Ponder; Gilliam)</p> | <p>The Board agrees but additional provisions could not be included in this expedited rulemaking because they may increase compliance costs. This issue will be addressed in the regular rulemaking.</p> | <p>No change</p> |
| <p>R7-6-202: It's good to have school facilities built/remodeled using local building codes. However, it's a bad idea to require the Board to list all applicable codes on its web site because there are too many and they change too fast. (Gilliam; Wyckoff)</p> <p>School facilities should be built using local building codes. Codes vary widely between counties and municipalities. (Davenport)</p> | <p>The Board believes the concerns about building codes are valid and decided to reevaluate this provision.</p> | <p>To provide time to reevaluate applicable building codes, the Board removed R7-6-202 from the rulemaking. Because this change would leave no applicable building code, the Board also removed the repeal of R7-6-260 from the rulemaking. This has the effect of leaving R7-6-260 as it currently exists.</p> |
| <p>R7-6-205(E): What is means by "adequate security"? Site security is much more than a fence around a playground. (Gilliam; Bendor) There are national guidelines regarding school safety. Reference should be made to them. (Bakalis)</p> | <p>The Board agrees that school safety and security are very important. However, additional provisions might increase compliance costs and cannot be addressed in an expedited rulemaking. This issue will be addressed in the regular rulemaking.</p> | <p>No change</p> |
| <p>R7-6-210: The rule regarding classroom space is inadequate for current educational needs. It fails to accommodate space for teaching, desk reconfiguration, accessibility, movement, storage, etc. (Imirzian; Bakalis)</p> | <p>Increasing the requirement regarding classroom square footage would increase the cost of compliance. It cannot be done in an expedited rulemaking. The Board will revisit this issue when the regular rulemaking is done.</p> | <p>No change</p> |
| <p>R7-6-210, R7-6-211, R7-6-221, R7-6-221, R7-6-227, R7-6-230, R7-6-245, R7-6-246, R7-6-248, and R7-6-258: These issues should be addressed in policy rather than rule to allow them to change quickly and to accommodate differences in district preferences. (Bakalis)</p> | <p>This is a rulemaking. Things addressed in policy are outside its scope. However, any requirement with which a district must comply has to be, by definition, a rule (See A.R.S. § 41-1001(19)).</p> | <p>No change</p> |
| <p>R7-6-210(C): This subsection is confusing. It seems to reduce the cumulative square footage listed in subsection (A). (Gilliam)</p> | <p>Cumulative classroom square footage is different from and a subset of classroom square footage.</p> | <p>No change</p> |



| | | |
|---|--|--|
| <p>R7-6-210(E): An exterior space “may” be included. Who decides, what is the intent of this subsection, what is the issue? (Gilliam; Bendor)</p> <p>An exterior space should not be included. It is not a good minimum standard. Exterior space should not be used in place of interior space. (Davenport)</p> | <p>The intent is to provide flexibility to local authorities. An exterior classroom is not required but may be used.</p> | <p>No change</p> |
| <p>R7-6-211(1)(b): Does this subsection prohibit a built-in desk/cabinet/counter spaces? (Gilliam)</p> | <p>No. It simply says that student and teacher desks are required to be movable.</p> | <p>No change</p> |
| <p>R7-6-212: This entire Section is unnecessary. Because lighting system technology is ever changing, just say to comply with building codes. (Gilliam; Davenport)</p> <p>There is no mention of daylighting in this Section. Daylighting is important to learning outcomes. (Bakalis)</p> | <p>This issue will be revisited when the Board addresses building codes in the regular rulemaking.</p> <p>Adding a provision regarding daylighting might have resulted in increased compliance costs and could not be done in an expedited rulemaking. This issue will be revisited when the regular rulemaking is done.</p> | <p>No change</p> <p>No change</p> |
| <p>R7-6-213(B): Evaporative cooling is not a good source of cooling in a modern classroom. Evaporative cooling systems should be replaced with HVAC units. (Gilliam; Davenport)</p> <p>The last sentence of the subsection makes no sense. (Gilliam; Bendor; Bakalis; Wyckoff)</p> | <p>The Board agrees but as Mr. Gilliam points out, replacing an evaporative cooling system with an HVAC unit results in increases in the cost of compliance. This change could not be made in an expedited rulemaking. This issue will be addressed when the regular rulemaking is done.</p> <p>The commenters are correct about the last sentence, part of which was inadvertently omitted in the NEPR.</p> | <p>No change</p> <p>The omitted part of the last sentence, which is in the rule as it currently exists, was added.</p> |
| <p>R7-6-214: The decibel level should not be stated. Rather, voice amplification systems should be used so all students can hear the teacher without the teacher having to strain the teacher’s voice. (Bakalis)</p> | <p>As the commenter indicated, voice amplification systems cost money. Because of this, they could not be addressed in an expedited rulemaking.</p> | <p>No change</p> |
| <p>R7-6-215: The rule should not specify an ambient CO² level. Rather, it should reference a national standard. (Bakalis; Wyckoff)</p> | <p>Referencing a national standard was a change that might incur increased compliance costs and could not be done in an expedited rulemaking. This will be revisited when the regular rulemaking is done.</p> | <p>No change</p> |
| <p>R7-6-216 and R7-6-248: The requirements for space for special education and vocational education appear to be deleted. (Bendor)</p> | <p>A new provision regarding space for special education was removed because of the expedited rulemaking limitation regarding compliance costs. Space regarding vocation education (now Career and Technical Education) is addressed in R7-6-247.</p> | <p>No change</p> |
| <p>R7-6-221: The requirement to have a TV/VCR is not needed. (Gilliam; Bakalis; Davenport; Wyckoff)</p> <p>Having a specific publication date on materials makes them quickly out of date. (Bakalis; Wyckoff)</p> | <p>The Board agrees but requiring different equipment or more recently published materials is apt to increase the cost of compliance. The Board will address this when the regular rulemaking is done.</p> | <p>No change</p> |
| <p>R7-6-225: This Section should clarify that the cafeteria is an interior space. (Gilliam; Davenport)</p> | <p>Some school districts combine an exterior space with an interior space as a cafeteria. The Board does not want to exclude this use of exterior space.</p> | <p>No change</p> |



| | | |
|---|---|--|
| R7-6-230(3): The last sentence should not be struck because it provides flexibility to districts. (Wyckoff) | The Board views the last sentence as unnecessarily duplicative. The Section is about multiuse spaces. By definition, this allows use as provided in the last sentence. | No change |
| R7-6-235: Continuing to fund technology devices at the rate of one device for every eight students is inadequate. There needs to be one device for each student. This could potentially result in savings by replacing hard-copy textbooks with digital textbooks and would allow for academic time to extend beyond the traditional classroom. (Ponder; Gilliam; Bendor; Bakalis; Davenport) | The ratio of technology devices to students had to be maintained in this expedited rulemaking to comply with statute requiring no increase in regulatory costs. The Board appreciates the suggestion and will address technology issues in the regular rulemaking. | No change |
| R7-6-240: The guideline regarding transportation is repealed with no alternative guideline provided. (Ponder; Bendor) | After consideration, the Board decided to remove this Section from the rulemaking. It will address the Section in the regular rulemaking. | The Section was removed from the rulemaking. |
| R7-6-246: Many districts now use virtual microscopes. This provision should have enough flexibility to accommodate this new technology. (Wyckoff) | As with all other issues involving emerging technology, this cannot be addressed in an expedited rulemaking because of the potential for increasing compliance costs. It will be revisited when the regular rulemaking is done. | No change |
| R7-6-249(B)(4): The provision regarding multiple use of a space is not needed because it is in R7-6-225. (Gilliam) | It makes rules more user-friendly if the user does not have to hunt for provisions applicable to a subject. The provision regarding multiple use of space occurs several times in the rules. However, when the regular rulemaking is done, the Board will consider including a general provision about multiple uses of spaces. | No change |
| R7-6-261: This Section is not needed. The building codes referenced in R7-6-202 are adequate. And energy performance contacting is addressed at A.R.S. § 15-213.01(B). (Gilliam) | A.R.S. § 15-213.01(B) is a voluntary program in which districts work with local utilities under an agreement approved by the Department of Education. While a piece of the program touches on energy savings, it is unclear whether it satisfies the intent of the rule. The Board will revisit this potential duplication when the regular rulemaking is done. | No change |

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:

None

a. Whether the rule requires a permit, license, or agency authorization under A.R.S. § 41-1037(A) and whether a general permit is used and if not, the reasons why a general permit is not used:

The Board does not issue permits.

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:

Civil rights laws prohibiting discrimination based on disability are federal laws applicable to school facilities. The rules are not more stringent than federal law.

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

No analysis was submitted.

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

None

14. The full text of the rules follows:

**TITLE 7. EDUCATION
CHAPTER 6. SCHOOL FACILITIES BOARD**



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 R7-6-701. Application
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 R7-6-710. ~~Academic Classroom Space~~ Square Footage Requirements for the ASDB
 R7-6-711. Classroom Fixtures and Equipment
 R7-6-712. ~~Classroom Lighting~~ Repealed
 R7-6-713. ~~Classroom Temperature~~ Repealed
 R7-6-714. Classroom Acoustics
 R7-6-715. ~~Classroom Air Quality~~ Repealed
 R7-6-716. ~~Education Classroom Facilities for Disabled Students~~ Repealed
 R7-6-720. ~~Libraries and Media Centers/Research Area~~ Repealed
 R7-6-721. Equipment for ~~Libraries and Media Centers/Research Area~~ Learning and Technology Center
 R7-6-725. ~~Cafeterias~~ Repealed
 R7-6-726. ~~Food Service~~ Repealed
 R7-6-727. ~~Equipment List for Food Service~~ Repealed
 R7-6-730. ~~Auditoriums, Multipurpose Rooms, or Other Multiuse Space~~ Repealed
 R7-6-735. ~~Technology~~ Repealed
 R7-6-740. ~~Transportation~~ Repealed
 R7-6-745. ~~Science Facilities~~ Repealed
 R7-6-746. Equipment List for Science Facilities Repealed
 R7-6-747. ~~Art Facilities~~ Repealed



- R7-6-748. ~~Vocational Education Facilities~~ Repealed
- R7-6-749. ~~Physical Education and Comprehensive Health Program Facilities~~ Repealed
- R7-6-750. ~~Equipment List for Physical Education~~
- R7-6-751. ~~Alternative Delivery Method~~ Repealed
- R7-6-755. ~~Parent Work Space~~ Repealed
- R7-6-756. Two-Way Internal Communication System
- R7-6-757. ~~Fire Alarm~~ Repealed
- R7-6-758. Administrative Space
- R7-6-760. ~~Laws and Building Codes~~ Repealed
- R7-6-761. ~~Energy Saving Measures~~ Repealed
- R7-6-765. ~~Building Systems~~ Repealed
- R7-6-770. ~~Building Structural Soundness~~ Repealed
- R7-6-771. ~~Exterior Envelope, Interior Surfaces and Interior Finishes~~ Repealed
- R7-6-775. ~~Minimum Gross Square Footage~~ Repealed
- R7-6-776. ~~Assessment of Minimum Gross Square Footage~~ Repealed
- R7-6-780. Student Boarding Space
- R7-6-781. ~~Facility Requirements for ASDB Program Requirement Facilities Programs~~
- R7-6-782. Student Health Center
- R7-6-783. ~~Parent Outreach Program~~ Repealed
- R7-6-790. ~~Guidelines Exception~~ Repealed

ARTICLE 1. DEFINITIONS

R7-6-101. Definitions

~~The definitions at A.R.S. § 15-2032 apply to this Chapter. Additionally, unless otherwise specified, the following terms mean in this Chapter:~~

1. “Ambient ~~CO2 Level~~ CO2 level” means the carbon dioxide level of the outside air.
2. “~~All weather~~ All-weather surface” means ~~a an area for vehicular use and/or or parking area that shall be is~~ surfaced with ~~one of the following:~~ asphalt, concrete, chip seal, graded and compacted gravel, or other stabilized system.
3. “~~Area~~” means ~~exterior covered or uncovered portion of a school site.~~
- 4.3. “Board” means the School Facilities Board.
- 5.4. “Decibel” means a unit ~~in which various acoustical hearing level quantities are expressed~~ for expressing the relative intensity of sounds.
- 6.5. “Eligible students” ~~means eligible students as defined in~~ has the same meaning as prescribed at A.R.S. § 15-901(A)(9).
- 7.6. “Equipment” means ~~a specified an~~ item not affixed to the real property of a school facility.
8. “~~Executive Director~~” means ~~Executive Director of the School Facilities Board as set forth in A.R.S. § 15-2002(C).~~
- 9.7. “Exterior envelope” means the exterior walls, floor, and roof of a building.
- 10.8. “Fixture” means ~~a specified an~~ item ~~that is~~ affixed to the real property of a school facility.
- 11.9. “~~Footcandle~~ Foot-candle” means ~~the direct light thrown, amount of illumination the inside surface of on a square foot of surface,~~ a one-foot-radius sphere would receive from ~~by~~ a candle 7/8 inch in diameter burning at the exact center of the sphere at 7.776 grams per hour.
- 12.10. “FTE” means ~~fulltime~~ full-time equivalent.
- 13.11. “~~General Classroom~~ classroom” means a ~~classroom~~ space that ~~is or~~ can be appropriately configured for instruction in at least the areas of language arts, mathematics, and social studies.
- 14.12. “HVAC” means a heating, ventilation, and air conditioning system. ~~This does not necessarily mean a refrigerated~~ The air conditioning system may or may not be refrigerated.
13. “IEP” means individualized educational plan, a legal document required by law for each public school child who needs special education.
- 15.14. “~~Normal Conditions~~ conditions” means occupancy during regular school hours while the building system is operating.
- 16.15. “PPM” means parts per million.
17. “Pupil” means ~~student.~~
18. “~~Pupil transportation vehicle~~” means ~~a bus used to transport eligible students between their residence and a school facility for the academic day or a vehicle used to transport eligible disabled students between their residence and a school facility for the academic day.~~
- 19.16. “Random ~~sample~~” means arbitrary selection through a process ~~of assigning numbers to~~ in which each classroom in each building ~~to be assessed~~ has an equal chance of being selected.
- 20.17. “School facility” means a building or group of buildings and outdoor area that are administered together to comprise a school campus.
- 21.18. “School site” means one or more parcels of land where a school facility is located. More than one school facility may be located on a school site.
22. “Space” means ~~square footage located within the interior of a building.~~



- ~~23-19.~~ “Specialty classroom” means a classroom space square footage that is or can be appropriately configured for instruction in a specific subject such as specifically designed for instruction in science, physical education, career and technical education, or art.
24. “Student body” means the number of students at a school facility.
- ~~25-20.~~ “Student” means the number of students an individual:
- ~~Enrolled at a school facility; and~~
 - ~~in In average daily membership. Average daily membership is defined as the attending average enrollment of fractional students and full-time students, minus withdrawals, of each school day through the first 100 days in session, not adjusted for average daily attendance, which is defined at A.R.S. § 15-901.~~
21. “Student body” means the number of students at a school facility.
26. “Transportation capacity” means the number of passenger seats, according to manufacturer specifications, available on all of the pupil transportation vehicles owned by the school district, multiplied by two.

ARTICLE 2. MINIMUM SCHOOL FACILITY GUIDELINES

R7-6-201. Application

- A.** The provisions of this ~~Article~~ Chapter are applicable to a school facility and equipment that are necessary to meet the minimum school facility guidelines established in this Article or to meet the gross square footage standards and are in addition to standards prescribed by law.
- B.** Notwithstanding subsection (A), new construction projects and building renewal projects approved before the effective date of this rulemaking are exempt from changes made in this rulemaking.

R7-6-205. School Site

- A.** A school site shall have safe access, parking, drainage, and security, ~~and area~~ to accommodate a school facility that complies with:
- ~~the The~~ minimum gross square footage requirements established in A.R.S. § 15-2011, for the number of students at the school facility; and that comply with these guidelines
 - This Chapter.
- B.** “Safe access” means A school site provides safe access by having:
- ~~a A~~ student drop-off drop-off area; and
 - ~~or A~~ pedestrian pathway that allows students to enter the school facility through a designated point of entry without crossing vehicular traffic or by using crossing vehicular traffic at a designated crosswalk. Any student drop-off area that is used by a bus must be configured to accommodate bus width and turning requirements.
- C.** “Parking means a maintainable all-weather surfaced A school site provides adequate parking by having an all-weather surface area that is large enough to accommodate one parking space per staff FTE and one visitor parking space per 100 students. If this definition is not met, A school site that is unable to provide adequate parking may have the sufficiency of the parking at the school site is subject to review determined by the Board using the following criteria:
- Availability of street parking around the school;
 - Availability of any nearby parking lots;
 - Availability of public transit;
 - Number of staff ~~that who~~ drive to work on a daily basis; and
 - The average number of visitors on a daily basis.
- D.** “Drainage” means that a A school site provides adequate drainage is configured such that runoff does not undermine the structural integrity of the school buildings located on the site or create flooding, ponding, or erosion resulting in a threat to health, safety, or welfare if the school site is prepared in a manner consistent with the drainage and floodplain management standards of the jurisdiction in which the school site is located.
- E.** “Security” means A school site provides adequate security if there is a fenced or walled, play/physical outdoor, play or physical education area for preschool students with disabilities in programs for preschool children with disabilities and kindergarten and students in grades one kindergarten through grade six. This definition is met if the entire school is fenced or walled. If this definition is not met, A school site that is unable to provide adequate security may have the sufficiency of security at the school site is subject to review determined by the Board using the following criteria:
- Amount of vehicular traffic near the school site;
 - Existence of hazardous or natural barriers on or near the school site;
 - The amount of animal nuisance near the school site; and
 - Visibility of the ~~play/physical outdoor, play or physical~~ education area.

R7-6-210. Academic Classroom Space Square Footage

- A.** A school district shall have school facilities with the following minimum cumulative classroom square footage: ~~of 32 square feet for each student in programs for preschool children with disabilities, kindergarten programs and grades one through three in the district.~~
- For preschool students with disabilities through grade three: 32 square feet per student;
 - For grades four through six: 28 square feet per student;
 - For grades seven and eight: 26 square feet per student; and
 - For grades nine through 12: 25 square feet per student.
- B.** A school district shall have school facilities with cumulative classroom square footage of 28 square feet for each student in grades four through six in the district. Classroom square footage of a school facility is measured from interior wall to interior wall of a classroom and is the space required for teaching. Both general and specialty classrooms are included in the classroom square footage of a school facility.



- C. A school district shall have school facilities with cumulative Cumulative classroom square footage of 26 square feet for each student in grades seven and eight in the district. is measured as follows:
 - 1. 100 percent of the classroom square footage usable for general classroom purposes and occupied throughout a day by the same students in programs for preschool students with disabilities, kindergarten, and grades one through six;
 - 2. 90 percent of the classroom square footage usable for general and specialty classroom purposes in programs for students in grades seven and eight; and
 - 3. 85 percent of the classroom square footage usable for general and specialty classroom purposes in programs for students in grades nine through 12.
- D. A school district shall have school facilities with cumulative classroom square footage of 25 square feet for each student in grades 9 through 12 in the district. Classroom square footage includes space allocated for any of the following purposes:
 - 1. Garment storage.
 - 2. Supply storage.
 - 3. Work counter; and
 - 4. Teacher or student collaboration.
- E. For purposes of measuring cumulative classroom square footage for programs for preschool children with disabilities, kindergarten programs and grades one through six, classroom spaces are those occupied throughout the school day by the same students, or usable for general classroom purposes. An exterior space may be included in the classroom square footage of a school facility if the exterior space is covered and meets all other standards in this Chapter.
- F. For purposes of measuring cumulative classroom square footage for grades seven and eight, classroom spaces are 90 percent of the square footage of those rooms usable for general and specialty classroom purposes.
- G. For purposes of measuring cumulative classroom square footage for grades 9 through 12, classroom spaces are 85 percent of the square footage of those rooms usable for general and specialty classroom purposes.
- H. Classroom space is measured from interior wall to interior wall.
- I. The amount of classroom space per student specified in this Article accounts for required teaching space.
- J. The square footage of a general classroom is not counted as specialty classroom square footage.
- K. The square footage of a specialty classroom is not counted as general classroom square footage.

R7-6-211. Classroom Fixtures and Equipment

- ~~A.~~ Each general and specialty classroom shall:
 - 1. ~~contain~~ Contain a work surface and seat for each student, teacher, and other individual regularly assigned to in the classroom. The work surface and seat shall be:
 - a. ~~appropriate~~ Appropriate for the normal activity of the class conducted in the room. ~~A work surface and seat are adequate if the items are; and~~
 - 1. ~~Safe; and~~
 - 2. ~~b. Maintainable~~ Capable of being moved into different configurations;
 - ~~B.2.~~ Each general and specialty classroom shall have Have one or more, non-electronic, mounted or retractable, surfaces, at least three feet by five feet, which fulfill all of the following purposes:
 - a. ~~an~~ Is erasable, ~~surface and a surface~~
 - b. Is suitable for projection, ~~and purposes, appropriate for group classroom instruction and a~~
 - c. Is suitable for display surface. ~~A single surface may meet one or more of these purposes. An erasable surface and a surface suitable for projection purposes, appropriate for group classroom instruction must be at least three feet by five feet;~~
 - ~~C.3.~~ Each general and specialty classroom shall have Have storage for classroom materials or ~~access to conveniently located~~ accessi-ble storage; and
 - ~~D.4.~~ Each general and specialty classroom shall have a work surface and seat for the teacher and for the aid assigned to the classroom ~~and Have~~ secure storage for student records, ~~that is located in the classroom or is convenient to access from the classroom or~~ conveniently accessible secure storage. Student records may be stored electronically.

R7-6-212. Classroom Lighting

- ~~A.~~ Each general, science, and art classroom shall have a light system capable of maintaining at least:
 - 1. ~~50 foot-candles~~ Fifty foot-candles of light if the light is provided by incandescent, halogen, or fluorescent bulbs; or
 - 2. Thirty foot-candles of light if the light is provided by LED (light emitting diode) bulbs;
- ~~B.~~ The light level shall be measured at a work surface located in the approximate center of the classroom, between clean light fixtures under normal operating conditions.
- ~~C.~~ A random sample of 10 percent of the general, science, and art classrooms in each building shall be measured to determine the classroom light level for the school facility.
- ~~D.~~ For purposes of this Section, all portable or modular buildings located at a school facility that were manufactured in the same year and installed at the school facility at the same time are considered a single building.

R7-6-213. Classroom Temperature

- ~~A.~~ Each general, science, and art classroom A school facility shall have a an HVAC system capable of maintaining a temperature between 68° and 82 F under normal conditions with an occupied classroom.
- ~~B.~~ Except in areas where the elevation is above 5,000 feet, defective or non-operable air conditioners and evaporative coolers shall be replaced with air conditioning. Non-air conditioned schools with elevations less than 5,000 feet shall be air-conditioned.
- ~~C.~~ The temperature shall be measured at a work surface in the approximate center of the classroom, under normal conditions.
- ~~D.~~ A random sample of 10 percent of the general, science, and art classrooms in each building shall be measured to determine the classroom temperature level for the school facility.



~~E. For purposes of this Section, all portable or modular buildings located at a school facility that were manufactured in the same year and installed at the school facility at the same time are considered a single building.~~

R7-6-214. Classroom Acoustics

- ~~A. Each general, science, and art classroom shall be maintainable at a The sustained background sound level of each general, science, and art classroom shall be less than 55 decibels.~~
~~B. The sound level shall be measured at a work surface in the approximate center of the classroom, under normal conditions.~~
~~C. A random sample of 10 percent of the general, science, and art classrooms in each building shall be measured to determine the classroom sound level for the school facility.~~
~~D. For purposes of this Section, all portable or modular buildings located at a school facility that were manufactured in the same year and installed at the school facility at the same time are considered a single building.~~

R7-6-215. Classroom Air Quality

- ~~A. Each general, science, and art classroom shall have a HVAC system capable of maintaining a CO₂ The CO₂ level of not more than in each general and specialty classroom shall not exceed 800 PPM above the ambient CO₂ CO₂ level.~~
~~B. The air quality shall be measured at a work surface in the approximate center of the classroom, under normal conditions.~~
~~C. A random sample of 10 percent of the general, science, and art classrooms in each building shall be measured to determine the classroom air quality level for the school facility.~~
~~D. For purposes of this Section, all portable or modular buildings located at a school facility that were manufactured in the same year and installed at the school facility at the same time are considered a single building.~~

R7-6-216. Education Classroom Facilities for Disabled Students Measuring Classroom Comfort

~~A school facility shall have space or access to space capable of being used for the education programs of disabled students attending the school facility. To determine whether a school facility complies with the standards in R7-6-212 through R7-6-215:~~

- ~~1. Classroom lighting, temperature, acoustics, and air quality shall be measured at a work surface in the approximate center of a classroom under normal conditions;~~
- ~~2. Measuring shall be performed for a random sample of 10 percent of the general, science, and art classrooms in each building of the school facility; and~~
- ~~3. All portable or modular buildings manufactured in the same year and installed at the school facility at the same time are considered a single building.~~

R7-6-220. Libraries and Media Centers/Research Area Learning and Technology Center

- ~~A. A school facility shall have a learning and technology center with space for students to access electronic and hard-copy research materials, literature, non-text and reading materials, and reading books and technology, to permit students to achieve state academic standards as prescribed by the State Board of Education. This The learning and technology center shall include space for reading, listening, and viewing materials.~~
~~B. For an elementary school facility that serves at least 150 students, this space the learning and technology center shall be have space equal to the greater of 1000 square feet or the square footage equal to 20 square feet per student for 10 percent of the student body.~~
~~C. For a middle or junior high or high school facility that serves at least 150 students, this space the learning and technology center shall be have space equal to the greater of 1200 square feet or the square footage equal to 20 square feet per student for 10 percent of the student body.~~
~~D. A school facility that serves at least 150 students shall have library fixtures and equipment in accordance with R7-6-221 as modified from time to time.~~
~~E. A school facility shall have library materials in accordance with R7-6-221 as modified from time to time.~~

R7-6-221. Equipment for ~~Libraries and Media Centers/~~Research Area Learning and Technology Center

- ~~A. The standard equipment list for libraries and media centers/research areas is as follows learning and technology center of a school facility shall contain the following minimum equipment:~~
- ~~1. One linear foot of library book shelves shelf space per student;~~
 - ~~2. For a school facility of 150 or more students, one work surface and seat for every 20 students, minimum of 15, maximum of 75;~~
 - ~~3. For a school of 150 or more students, one seat for every 20 students, minimum of 15, maximum of 75;~~
 - ~~4.3. One TV/VCR;~~
 - ~~5.4. One overhead projector Projection equipment and projection surface;~~
 - ~~6.5. Ten books per students student; and~~
 - ~~7.6. One almanac (may be An electronic or hard copy); of each of the following:~~
 - ~~a. Almanac.~~
 - ~~b. Encyclopedia.~~
 - ~~c. Atlas, and~~
 - ~~d. Unabridged dictionary.~~
 - ~~8. One encyclopedia set per 200 students (may be electronic or hard copy);~~
 - ~~9. One atlas (may be electronic or hard copy); and~~
 - ~~10. One unabridged dictionary (may be electronic or hard copy);~~
- ~~B. Each If a hard-copy almanac, encyclopedia, and or atlas is used, each shall have a publication date of 2000 or later.~~



R7-6-225. Cafeterias Cafeteria

A school facility shall have a covered area or space, or combination, to permit in which students are able to eat within the school site, outside of general classrooms. This The space used as a cafeteria may have more than one function and may fulfill more than one guideline requirement (auditorium and/or indoor physical education) in this Chapter.

R7-6-226. Food Service

- A. A school facility shall have space, and fixtures, and equipment, in accordance with the standard equipment list in R7-6-227 as modified from time to time, for the preparation, receipt, storage, and service of sufficient for receiving, storing, preparing, and serving food to students. The food service fixtures and equipment shall be in or accessible to the cafeteria space, that is accessible to the serving area. The space, fixtures, and equipment shall be appropriate for the food service program of the school facility. Food service fixtures and equipment are subject to assessment under R7-6-265(A)(1) and (2).
- B. ~~Food~~ A school facility shall ensure food service facilities fixtures and equipment shall comply with county health codes.

R7-6-227. Equipment List for Food Service:

- A. A school facility that receives, stores, prepares, and serves food to students shall have the following fixtures and equipment for the preparation, receipt, storage and service of food to students:
 1. One three-compartment sink;
 2. One double stack double-stack convection oven for a cooking kitchen or a warming oven;
 3. One dishwasher if reusable dishes and silverware are used;
 4. One hot food hot-food holding appliance;
 5. One range with hood;
 6. One refrigerator;
 7. One freezer, and
 8. One milk refrigerator.
- B. The items in subsection (A) of this Section may be substituted for a reasonable An alternative may be substituted for any item in subsection (A) if the alternative enables the school facility to receive, store, prepare, and serve food to students.
- C. A school facility that receives, stores, and serves food prepared off the school site may adjust the items in subsection (A) accordingly.

R7-6-230. Auditoriums, Multipurpose Rooms, or Other Multiuse Space

A school facility shall have a space capable of being used for student assembly. The space shall be:

1. sufficient Large enough to accommodate one-third of the student body, which shall be the
2. The same size or larger than an average classroom at the school facility, and. The space must be
3. equal to at least seven square feet multiplied by one-third of the student body in addition to the square footage of open aisle and exiting path space. This space may have more than one function and may fulfill more than one guideline requirement (cafeteria and/or indoor physical education).

R7-6-235. Technology

- A. Each classroom at a A school facility shall have Internet access, at least through a network modem. Each school must have available either on a school basis or on a district wide basis a firewall and filtering software. Each school facility shall have provide at least one network connected multimedia computer device, available for student use, for every eight students, on a school-wide network. Computer equipment is subject to assessment under R7-6-265(A)(1) and (2). A multimedia device is a computer, tablet, or other smart device with internet access capable of presenting multimedia content.
- B. A multimedia computer is defined as a computer that has sound, CD-ROM, a keyboard, a monitor, and a pointing device.
- C. Until June 30, 2005, each district shall have an application service provider, coupled with an adequate variety of instructional software.
- D. In order to meet the requirements of this Section, should a school district have an application service provider in place, the school district may also meet the requirements of subsection (A) of this Section by purchasing thin client terminals or network appliances with full access to the Internet, equipped with a 13" screen or larger monitors.

R7-6-245. Science Facilities

- A. A school facility with students in grades 5 five through 12 shall have classroom space to deliver square footage for delivery of practical science instruction, or classroom space for an alternate science delivery method in science.
 1. For grades five through eight, no space is required beyond the academic classroom requirement classroom square footage is required other than as specified in R7-6-210.
 2. For grades 9 nine through 12, four square feet per student is required for of practical and instructional instruction in science space is required. The space shall not be smaller than the average classroom at the facility. This space is included in the academic classroom requirement and may be used for other instruction when not needed for practical instruction in science.
- B. A Except as specified in R7-6-251, a school facility with students in grades 5 five through 12 that delivers practical science instruction shall have the science fixtures and equipment, in accordance with specified in R7-6-246 as modified from time to time. If an alternate science delivery method is used by a district, a school facility shall have science fixtures and equipment for students in grades 5 through 12 that are an alternate equivalent to the science fixtures and equipment identified in R7-6-246 for delivery of practical instruction in science.

R7-6-246. Equipment List for Science Facilities

- A. Science facilities for students in grades 9 nine through 12 shall have the following fixtures and equipment:
 1. One demonstration table with non-corrosive surface per 250 students;
 2. Six laboratory stations with a non-corrosive surface per 250 students;
 3. One fume hood;
 4. One chemical storage unit per 1,000 students;



5. One ~~eye wash/shower~~ eyewash or safety shower station per 250 students;
 6. ~~One Access to one~~ dissecting microscope per 25 students, minimum of ~~the lesser of 12~~ microscopes or the number equal to one-half of the number of eligible students in grades nine through 12 divided by 25, whichever is fewer; and
 7. One refrigerator.
- B. Science facilities for students in grades five through 12 shall have the following fixtures and equipment:
1. One sink per 250 students;
 2. ~~One Access to one~~ compound microscope per 25 students, minimum of ~~the lesser of 12~~ microscopes or the number equal to one-half of the number of eligible students in grades five through 12 divided by 25, whichever is fewer; and
 3. One balance per 250 students.

R7-6-247. Arts Facilities; Career and Technical Education Facilities

- A. ~~A Except as specified in R7-6-251, a school facility with students in grades 7 seven~~ through 12 shall have space to deliver art education programs, including visual, music, and performing arts, ~~programs or have access to an alternate delivery method and career and technical education programs.~~
- B. ~~For A school facility with students in grades 7 seven~~ through 12; ~~shall have~~ four square feet per student of ~~art and/or vocational education space is required for art education and/or career and technical education.~~ The space shall not be smaller than the average classroom at the facility. ~~This space is included in the academic classroom requirement and may be used for other instruction when not needed for instruction in the arts or career and technical education.~~
- C. ~~A school facility with students in kindergarten through sixth grade may deliver art education in the classroom square footage specified in R7-6-210. Education in performing arts may be delivered to students in kindergarten through sixth grade in spaces such as a multiuse space, gymnasium, or cafeteria if the spaces have appropriate acoustical treatment.~~

R7-6-248. Vocational Education Facilities Repealed

- ~~A. A school facility with students in grades 7 through 12 shall have space to deliver vocational education programs or have access to an alternate delivery method.~~
- ~~B. For grades 7 through 12, four square feet per student of art and/or vocational education space is required. The space shall not be smaller than the average classroom at the facility. This space is included in the academic classroom requirement and may be used for other instruction.~~

R7-6-249. Physical Education and Comprehensive Health Program Facilities

- A. ~~A school facility shall have area and space and fixtures, in accordance with R7-6-250 as modified from time to time, classroom square footage for indoor physical education activity and space for a comprehensive health program established in compliance with the academic standards prescribed by the State Board of Education.~~
- B. ~~For schools designed for 20-50 students, the The indoor space classroom square footage available for physical education must be one single space of at least 1,600 square feet. activity shall be:~~
1. ~~For a school facility designed to serve no more than 50 students: at least 1,600 square feet in a single space;~~
 2. ~~For schools designed for 50 a school facility designed to serve 51 to 125 students; the indoor space available for physical education must be one single space of at least 2,600 square feet in a single space;~~
 3. ~~For schools a school facility designed for more than 125 to serve 126 to 600 students; the total indoor space available for physical education must be at least 5,100 square feet, and one single space that is of which at least 2,600 square feet must be available; is in a single space; and~~
 4. ~~For a school facility designed to serve more than 600 students: at least 7,500 square feet, which may include space that also serves as a cafeteria.~~
- C. ~~This space The classroom square footage designated in subsection (B) may have more than one function and may fulfill more than one guideline requirement (cafeteria and/or auditorium). The including the comprehensive health space is the indoor space available for physical education program.~~

R7-6-250. Equipment List for Physical Education Activity

- A. A school facility shall have the following equipment and fixtures for physical education:
1. ~~Exterior to the building, one hardscape equivalent in size to an outdoor basketball court size surface area and two goals per 300 students, four court to a maximum of three hardscapes.~~
 2. ~~B. Exterior to the building, one baseball/softball backstop~~ A school facility with students in grades seven through 12 shall have a sports field appropriate for softball, hardball, football, track, soccer, or other sports.
- B. ~~Concrete shall be used when installing basketball courts.~~

R7-6-251. Alternate Alternative Delivery Method

- ~~If A school district may use an alternate delivery alternative method is used by the district to deliver instruction in art, science, or vocational career and technical education; the Before an alternate alternative method is used, the school district must be approved by shall:~~
1. ~~Have the school district governing board and be determine the alternative method is capable of meeting the requirements established in the academic standards prescribed by the State Board of Education for the specific subject area; and~~
 2. ~~Approve use of the alternative method.~~

R7-6-255. Parent Work Space

- A. If parents are invited to assist with school activities, a school facility shall include a work space ~~capable of being used by large enough to accommodate the number of parents expected to assist with school activities at one time.~~
- B. ~~One square foot per student, with a minimum of 150 square feet and a maximum of 800 square feet, is required. The maximum may be exceeded. The parent work space may be divided into more than one room. This space in multiple locations throughout the school facility and may have more than one function.~~



R7-6-256. Two-way Internal Communication System

A school facility shall have a ~~network and~~ two-way internal communication system, such as a telephone between a central location and ~~each classroom, library, physical education space, and the cafeteria~~ each general and specialty classroom, the learning and technology center, and the cafeteria.

R7-6-258. Administrative Space

- A. A school facility shall have space for ~~the use of by~~ the administration of the school. For the school administrator, 150 designated square feet is required. For general administrative purposes, and additional 1.5 square feet per student is required, with a minimum of a space between 150 square feet and a maximum of 2,500 and 1.5 square feet per student, as reasonable for the size of the anticipated student body, is required. The maximum may be exceeded.
- B. A school facility shall have dedicated space in which to isolate a sick student from the other students. This space shall be ~~a designated space that is~~ accessible to a restroom; and large enough to accommodate one cot per 200 students, with a maximum of four cots. ~~The maximum may be exceeded.~~
- C. A school facility shall have work space available to the faculty. ~~This space that is~~ in addition to any work area available to a teacher, space in or near a classroom. One square foot per student with a maximum of A space between 150 square feet and a maximum of 800 and one square foot is required foot per student, as reasonable for the size of the anticipated student body, is required. The maximum may be exceeded. The space may be divided into more than one room. This ~~The faculty work space may be in multiple locations throughout the school facility and may~~ have more than one function.

R7-6-261. Energy Saving Measures

~~New school facility construction and, as required, building renovations in existing school,~~ Both construction of a new school facility and renewal of an existing school facility shall include, where reasonable, energy conservation upgrades measures that will provide dollar savings in excess of the cost of the upgrade conservation measure within eight years of the installation construction or renewal.

R7-6-265. Building Systems

- A. ~~Building As required under A.R.S. § 15-2011(B)(3), building~~ systems in a school facility ~~must shall~~ be in working order and capable of being properly maintained. A building system ~~shall be is~~ considered to be in “working order and capable of being maintained;” all of the following:
 - 1. ~~The system is capable of being operated as intended and maintained;~~
 - 2. The system is capable of being maintained according to manufacturer’s instructions;
 - 2.3. ~~Newly manufactured or refurbished replacement parts are available;~~
 - 3.4. ~~The remaining life expectancy of the system, at the time of the initial statewide assessment, is at least three years;~~
 - 4.5. The system is capable of supporting the gross square footage standard and minimum of the school facility guidelines established in this Article; and
 - 5.6. ~~Components of the system present no imminent danger of personal injury.~~
- B. ~~Building systems include, as required by law, under A.R.S. § 15-2011(B)(3) to be in working order and capable of being maintained~~ include roof, plumbing, telephone, electrical, and ~~heating and cooling~~ HVAC systems. Additionally, under this Chapter, the following building systems shall be in working order and capable of being properly maintained: as well as fire alarm, twoway two-way internal communication, computer network cabling, and ~~existing~~ security systems.

R7-6-270. Building Structural Soundness

~~As required under A.R.S. § 15-2011(B)(4), all buildings of a school facility must shall~~ be structurally sound. A building of a school facility shall be is considered structurally sound if the building:

- 1. ~~presents~~ Presents no imminent danger of personal harm, ~~or major~~
- 2. Has no visible signs of major decay or distress, and
- 3. ~~the~~ Appears to have at least three years of remaining life expectancy of the building structure ~~appears to be at least a minimum of three years.~~

R7-6-271. Exterior Envelope, Interior Surfaces, and Interior Finishes

The exterior envelope, interior surfaces, and interior finishes ~~at of a school facilities must~~ facility shall be safe and capable of being maintained.

- 1. An exterior envelope is safe and capable of being maintained if:
 - a. Walls and roof are ~~weather tight under normal conditions with routine upkeep~~ constructed of materials requiring minimal maintenance, including painting;
 - b. ~~Doors~~ Walls, roof, doors, and windows are weather tight under normal conditions with routine upkeep; and
 - c. The building structural systems support the loads imposed on them.
- 2. An interior surface is safe and capable of being maintained if it is:
 - a. Structurally sound;
 - b. Capable of supporting a finish; and
 - c. Capable of continuing in its intended use, with normal maintenance and repair, for at least three years ~~after the initial statewide assessment.~~
- 3. An interior finish is safe and capable of being maintained if it is:
 - a. Free of exposed lead paint;
 - b. Free of friable asbestos; and
 - c. Capable of continuing in its intended use, with normal maintenance and repair, for at least three years ~~after the initial statewide assessment.~~

**R7-6-285. Guidelines Exception**

The Board may grant an exception from any of the guidelines requirements, in this Chapter, upon agreement between the Board and the school district. To obtain an exception, the governing board of the school district shall submit a written request to the Board. The Board shall grant an exception if it determines that the intent of the guideline is capable of being met by the school district in an alternate alternative manner. If the Board grants the exception, the Board shall deem the school district shall be deemed to meet meets the guideline and is not eligible for state funding to meet the guideline.

**ARTICLE 7. MINIMUM SCHOOL FACILITY GUIDELINES
FOR THE ARIZONA STATE SCHOOLS FOR THE DEAF AND BLIND**

R7-6-701. Application

- A.** The provisions of Article 2 apply to the Arizona State Schools for the Deaf and Blind (ASDB), created under A.R.S. Title 15, Chapter 11, except as specified in this Article.
- B.** When a provision of Article 2 refers to a school district, the reference shall be interpreted to mean the ASDB governing board.
- C.** If there is a conflict between a provision of this Chapter and a student's IEP, the IEP controls.
- D.** The provisions of this Article are applicable only to the Arizona State Schools for the Deaf and Blind ("ASDB") as created by A.R.S. Title 15, Chapter 11. Board funding for ASDB deficiency correction projects pursuant to this Article is subject to legislative authorization for such funding.

R7-6-705. School Site Repealed

- A.** A school site shall have safe access, parking, drainage, security, and area to accommodate a school facility that complies with the minimum gross square footage requirements established in A.R.S. § 52011, for the number of students at the school facility and that comply with these guidelines.
- B.** "Safe access" means a student drop off area or pedestrian pathway that allows students to enter the school facility without crossing vehicular traffic or by using a designated crosswalk. Any student drop off area that is used by a bus must be configured to accommodate bus width and turning requirements.
- C.** "Parking" means a maintainable all weather surfaced area that is large enough to accommodate one parking space per staff FTE and 10 visitor parking spaces per 100 students. If this definition is not met, the sufficiency of the parking at the site is subject to review by the Board using the following criteria:
 1. Availability of street parking around the school;
 2. Availability of any nearby parking lots;
 3. Availability of public transit;
 4. Number of staff that drive to work on a daily basis; and
 5. The average number of visitors on a daily basis.
- D.** "Drainage" means that a school site is configured such that runoff does not undermine the structural integrity of the school buildings located on the site or create flooding, ponding, or erosion resulting in a threat to health, safety, or welfare.
- E.** "Security" means perimeter fencing surrounding the campus with lockable access gates with at least one automatic gate including eard access as well as sight/audio, two way communication with a central security office. The campus shall also have an accessible security office of at least 300 square feet per campus for visitor registration and multiple campus surveillance cameras strategically located around campus feeding video to the security office via monitors. The campus shall also have a fenced or walled play/physical education area for students in programs for preschool children with disabilities and kindergarten and students in grades 1 through 6. The requirement for a fenced or walled play/physical education area is met if the entire school is fenced or walled; otherwise, the sufficiency of this requirement is subject to review by the Board using the following criteria:
 1. Amount of vehicular traffic near the school site;
 2. Existence of hazardous or natural barriers on or near the school site;
 3. The amount of animal nuisance near the school site; and
 4. Visibility of the play/physical education area.

R7-6-710. Academic Classroom Space Square Footage Requirements for the ASDB

- A.** To accommodate the needs of ASDB students, the classroom square footage requirements of the ASDB differ from those of other school facilities as follows.
- A.B.** The ASDB shall have school facilities with Minimum cumulative classroom square footage; of 150 square feet for each of its students in programs for preschool children with disabilities and kindergarten programs.
 1. For preschool students with disabilities through kindergarten: 150 square feet per student; and
 2. For grades one through 12: 100 square feet per student.
- B.C.** The ASDB shall have school facilities with cumulative classroom square footage of 100 square feet for each of its students in grades kindergarten through six. Learning and technology center:
 1. For an elementary school facility that serves at least 150 students, the greater of 1000 square feet or the square footage equal to 325 square feet per student for 10 percent of the student body; and
 2. For a middle or junior high or high school facility that serves at least 150 students, the greater of 1200 square feet or the square footage equal to 275 square feet per student for 10 percent of the student body.
- C.D.** The ASDB shall have school facilities with cumulative classroom square footage of 100 square feet for each of its students in grades seven and eight. Multiuse space capable of being used for student assembly:
 1. Large enough to accommodate one-half of the student body plus parents and staff.
 2. The same size or larger than an average classroom at the ASDB, and
 3. At least 50 square feet multiplied by one-third of the student body in addition to the square footage of open aisle and exiting path space.



- ~~D.E.~~ The ASDB shall have school facilities with cumulative classroom square footage of 100 square feet for each of its students in grades 9 through 12. Science facilities:
 1. For grades five through eight, no classroom square footage is required other than as specified in R7-6-710; and
 2. For grades nine through 12, 10 square feet per student is required for practical instruction in science.
- ~~E.F.~~ For purposes of measuring cumulative classroom square footage for programs for preschool children with disabilities, kindergarten programs and grades one through six, classroom spaces are those occupied throughout the school day by the same students, or usable for general classroom purposes. Art facilities: For students in grades seven through 12, 10 square feet per student is required for art education.
- ~~F.G.~~ For purposes of measuring cumulative classroom square footage for grades seven and eight, classroom spaces are 90 percent of the square footage of those rooms usable for general and specialty classroom purposes. Career and technical education facilities: For students in grades seven through 12, 40 square feet per student is required for career and technical education programs.
- ~~G.H.~~ For purposes of measuring cumulative classroom square footage for grades 9 through 12, classroom spaces are 85 percent of the square footage of those rooms usable for general and specialty classroom purposes. Physical education and comprehensive health program facilities: 125 square feet per student of indoor space is required for physical education and comprehensive health programs.
- ~~H.I.~~ Classroom space is measured from interior wall to interior wall. The spaces designated under subsections (C) through (H) shall not be smaller than the average classroom at the ASDB.
- ~~I.J.~~ The amount of classroom space per student specified in this Article accounts for required teaching space. The spaces designated under subsections (E) through (H) shall not be:
 1. Included in the classroom square footage requirement; or
 2. Used for instruction other than the specialty instruction specified.
- ~~J.~~ The square footage of a general classroom is not counted as specialty classroom square footage.
- ~~K.~~ The square footage of a specialty classroom is not counted as general classroom square footage.

R7-6-711. Classroom Fixtures and Equipment

- A. Each general and specialty classroom ~~of the ASDB~~ shall contain:
 1. ~~two~~ Two work surfaces and seating per student and seating for each student, in the classroom that accommodates The work surfaces and seat shall accommodate the special needs of a student who is deaf, blind, and multi-handicapped students or has multiple disabilities. The work surface and seat shall be appropriate for the normal activity of the class conducted in the room. A work surface and seat are adequate if the items are: and
 1. Safe; and
 2. Maintainable One work surface and seat for the teacher and any other individual regularly assigned to the classroom.
- B. Each general and specialty classroom shall have an erasable surface and a surface suitable for projection purposes, appropriate for group classroom instruction and a display surface. A single surface may meet one or more of these purposes. An erasable surface and a surface suitable for projection purposes, appropriate for group classroom instruction must be at least three feet by five feet. The ASDB shall provide the equipment and supplies necessary to meet the IEP of all students.
- ~~C.~~ Each general and specialty classroom shall have storage for classroom materials or access to conveniently located storage.
- ~~D.~~ Each general and specialty classroom shall have a work surface and seat for the teacher and for the aid assigned to the classroom and secure storage for student records, that is located in the classroom or is convenient to access from the classroom.
- ~~E.~~ Each classroom shall have the following equipment to facilitate instruction to deaf/hard of hearing students:
 1. ~~TTY~~
 2. Accessible computer with Internet access and printer
 3. Television with built-in captioned and videocassette recorder.
 4. Loop systems for auditory access.
 5. Sound field amplification system.
 6. Overhead projector.
- ~~F.~~ Each classroom shall have the following equipment to facilitate instruction to blind/visually impaired students:
 1. One CCTV.
 2. One listening station.
 3. Two Braille n' Speaks.
 4. Two Braille writers.
 5. Slantboards.
 6. Fully accessible computer station with Braille printer.
 7. Tables to accommodate Braille writers and Braille books simultaneously.
 8. Shelving for Braille materials, low vision aids/equipment.
 9. Auditory electronic dictionaries and calculators.
 10. Cane racks.
 11. Television monitor with a video cassette recorder.

R7-6-712. Classroom Lighting Repealed

- ~~A.~~ Each general, science, and art classroom shall have non-glare, natural light and a light system capable of maintaining at least 50 foot-candles of ambient, indirect light and 70 foot-candles of direct task lighting, which may include lamps.
- ~~B.~~ The light level shall be measured at a work surface located in the approximate center of the classroom, between clean light fixtures under normal operating conditions.
- ~~C.~~ A random sample of 10 percent of the general, science, and art classrooms in each building shall be measured to determine the classroom light level for the school facility.



D. For purposes of this Section, all portable or modular buildings located at a school facility that were manufactured in the same year and installed at the school facility at the same time are considered a single building.

R7-6-713. Classroom Temperature Repealed

- A.** Each general, science, and art classroom, and all student resident space shall have a HVAC system capable of maintaining a temperature between 68° and 82° F under normal conditions with an occupied classroom.
- B.** Except in areas where the elevation is above 5,000 feet, defective or non-operable A/C conditioning and evaporative coolers shall be replaced with A/C. Non-air conditioned schools with elevations less than 5,000 feet shall be air conditioned.
- C.** In the classrooms, the temperature shall be measured at a work surface in the approximate center of the classroom, under normal conditions.
- D.** A random sample of 10 percent of the student residence space, and the general, science, and art classrooms in each building shall be measured to determine the classroom temperature level for the school facility.
- E.** For purposes of this Section, all portable or modular buildings located at a school facility that were manufactured in the same year and installed at the school facility at the same time are considered a single building.

R7-6-714. Classroom Acoustics

- A.** The library/media center, the multipurpose room, and each general, science, and art classroom shall be maintainable at a sustained background sound level of the learning and technology center, multiuse space, and each general, science, and art classroom of the ASDB shall be less than 35 decibels.
- B.** The sound level shall be measured at a work surface in the approximate center of the room, under normal conditions.
- C.** A random sample of 10 percent of all rooms in each building subject to this requirement shall be measured to determine the room sound level for the school facility.
- D.** For purposes of this Section, all portable or modular buildings located at a school facility that were manufactured in the same year and installed at the school facility at the same time are considered a single building.

R7-6-715. Classroom Air Quality Repealed

- A.** Each general, science, and art classroom shall have a HVAC system capable of maintaining a CO₂ level of not more than 800 PPM above the ambient CO₂ level.
- B.** The air quality shall be measured at a work surface in the approximate center of the classroom, under normal conditions.
- C.** A random sample of 10 percent of the general, science, and art classrooms in each building shall be measured to determine the classroom air quality level for the school facility.
- D.** For purposes of this Section, all portable or modular buildings located at a school facility that were manufactured in the same year and installed at the school facility at the same time are considered a single building.

R7-6-716. Education Classroom Facilities for Disabled Students Repealed

A school facility shall have space or access to space capable of being used for the education programs of disabled students attending the school facility.

R7-6-720. Libraries and Media Centers/Research Area Repealed

- A.** A school facility shall have space for students to access research materials, literature, non-text reading materials, and reading books and technology, to permit students to achieve state academic standards as prescribed by the State Board of Education. This shall include space for reading, listening, and viewing materials.
- B.** For an elementary school facility that serves at least 150 students, this space shall be the greater of 1000 square feet or the square footage equal to 325 square feet per student for 10 percent of the student body.
- C.** For a middle or junior high or high school facility that serves at least 150 students, this space shall be the greater of 1200 square feet or the square footage equal to 275 square feet per student for 10 percent of the student body.
- D.** A school facility that serves at least 150 students shall have library fixtures and equipment in accordance with R7-6-721 as modified from time to time.
- E.** A school facility shall have library materials in accordance with R7-6-721 as modified from time to time.

R7-6-721. Equipment for Libraries and Media Centers/Research Area Learning and Technology Center

- A.** The standard equipment list for libraries and media centers/research areas is as follows: The learning and technology center of each ASDB campus shall have equipment defined in each student's IEP or as defined in R7-6-221, as appropriate.
1. Twelve linear feet of library book shelves per blind student and two linear feet of library book shelves per deaf student;
 2. One work surface for every 40 students;
 3. One seat for every eight students;
 4. Two TV's/VCR's;
 5. One overhead projector;
 6. One accessible computer station with Internet access for every 25 students;
 7. One Braille printer;
 8. Ten books per students;
 9. One almanac (may be electronic or hard copy);
 10. One encyclopedia set per 200 students (may be electronic or hard copy);
 11. One atlas (may be electronic or hard copy);
 12. One unabridged dictionary (may be electronic or hard copy); and
 13. At least one set of each of the books listed in subsections (9) through (12) of this Section shall be accessible to blind students.
- B.** Each almanac, encyclopedia and atlas shall have a publication date of 2000 or later.



R7-6-725. Cafeterias Repealed

A school facility shall have a covered area or space, or combination, to permit students to eat within the school site, outside of general classrooms. This space may have more than one function and may fulfill more than one guideline requirement.

R7-6-726. Food Service Repealed

- A:** A school facility shall have space and fixtures and equipment, in accordance with the standard equipment list in R7-6-727 as modified from time to time, for the preparation, receipt, storage, and service of food to students that is accessible to the serving area. The space, fixtures, and equipment shall be appropriate for the food service program of the school facility. Food service fixtures and equipment are subject to assessment under R7-6-765(A)(1) and (2).
- B:** Food service facilities and equipment shall comply with county health codes.

R7-6-727. Equipment List for Food Service Repealed

- A:** A school facility shall have the following fixtures and equipment for the preparation, receipt, storage and service of food to students:
 1. One three-compartment sink.
 2. One double stack convection oven for a cooking kitchen or a warming oven.
 3. One dishwasher if reusable dishes and silverware are used.
 4. One hot food holding appliance.
 5. One range with hood.
 6. One refrigerator.
 7. One freezer.
 8. One milk refrigerator.
- B:** The items in subsection (A) of this Section may be substituted for a reasonable alternative.

R7-6-730. Auditoriums, Multipurpose Rooms, or Other Multiuse Space Repealed

A school facility shall have a space capable of being used for student assembly sufficient to accommodate one-half of the student body plus parents and staff, which shall be the same size or larger than an average classroom at the facility. The space must be equal to at least 50 square feet multiplied by one-third of the student body. This space may have more than one function and may fulfill more than one guideline requirement (cafeteria and/or indoor physical education).

R7-6-735. Technology Repealed

- A:** Each classroom at a school facility shall have Internet access, at least through a network modem. Each school must have available either on a school basis or on a district wide basis a firewall and filtering software. Each school facility shall have at least one network multimedia computer, available for student use, for every eight students, on a school wide network. Computer equipment is subject to assessment under R7-6-765(A)(1) and (2).
- B:** A multimedia computer is defined as a computer that has sound, CD-ROM, a keyboard, a monitor, and a pointing device.
- C:** Until June 30, 2005, each ASDB campus shall have an application service provider, coupled with an adequate variety of instructional software.
- D:** When five or more students are provided instruction remotely, at least one classroom in each school facility shall be equipped for distance learning activities, including video conferencing capable of supporting 30 frames per second.

R7-6-740. Transportation Repealed

- A:** Pupil transportation vehicles manufactured prior to 1978 shall be replaced if the eligible students transported exceeds the student transportation capacity of the district, excluding the vehicle eligible for replacement.
- B:** Diesel-powered pupil transportation vehicles with more than 250,000 miles or more than 10 years of service, gasoline-powered pupil transportation vehicles with more than 150,000 miles or more than 10 years of service, and coach buses with more than 500,000 miles or more than 15 years of service, shall be replaced if the eligible students transported exceeds the student transportation capacity of the district, excluding the vehicle eligible for replacement.

R7-6-745. Science Facilities Repealed

- A:** A school facility with students in grades 5 through 12 shall have classroom space to deliver practical science instruction, or classroom space for an alternate science delivery method.
 1. For grades five through eight no space is required beyond the academic classroom requirement. For grades 9 through 12, 10 square feet per student of practical and instructional science space is required. The space shall not be smaller than the average classroom at the facility. This space is separate and distinct from the academic classroom requirement and may not be used for other instruction.
- B:** A school facility with students in grades 5 through 12 that delivers practical science instruction shall have science fixtures and equipment, in accordance with R7-6-746 as modified from time to time. If an alternate science delivery method is used by the ASDB, a school facility shall have science fixtures and equipment for students in grades 5 through 12 that are an alternate equivalent to the science fixtures and equipment identified in R7-6-746.

R7-6-746. Equipment List for Science Facilities Repealed

- A:** Science facilities for students in grades 9 through 12 shall have the following fixtures and equipment:
 1. One demonstration table with non-corrosive surface per 250 students.
 2. Six laboratory stations with a non-corrosive surface per 250 students.
 3. One fume hood.
 4. One chemical storage unit per 1,000 students.
 5. One eye wash/shower per 250 students.
 6. One dissecting microscope per 25 students, minimum of the lesser of 12 or one-half of the number of eligible students.
 7. One refrigerator.



- B.** Science facilities for students in grades 5 through 12 shall have the following fixtures and equipment:
1. One sink per 250 students.
 2. One compound microscope per 25 students, minimum of the lesser of 12 or one-half of the number of eligible students.
 3. One balance per 250 students.

R7-6-747. ~~Arts Facilities Repealed~~

- A.** A school facility with students in grades 7 through 12 shall have space to deliver art education programs including visual, music, and performing arts programs or have access to an alternate delivery method.
- B.** For grades 7 through 12, ten square feet per student of art and/or vocational education space is required. The space shall not be smaller than the average classroom at the facility. This space shall not be included in the academic classroom requirement and may not be used for other instruction.

R7-6-748. ~~Vocational Education Facilities Repealed~~

- A.** A school facility with students in grades 7 through 12 shall have space to deliver vocational education programs or have access to an alternate delivery method.
- B.** For grades 7 through 12, forty square feet per student of art and/or vocational education space is required. The space shall not be smaller than the average classroom at the facility. This space shall not be included in the academic classroom requirement and may not be used for other instruction.

R7-6-749. ~~Physical Education and Comprehensive Health Program Facilities Repealed~~

- A.** A school facility shall have area and space and fixtures, in accordance with R7-6-750 as modified from time to time, for physical education activity and space for a comprehensive health program established in compliance with the academic standards prescribed by the State Board of Education.
- B.** One hundred twenty-five square feet per student of comprehensive health space is required. The comprehensive health space is the indoor space available for physical education and this space shall not be included in the academic classroom requirement and this space shall not have more than one function or satisfy more than one guideline requirement.

R7-6-750. ~~Equipment List for Physical Education~~

- A.** A school facility shall have the following equipment and fixtures for physical education:
1. Exterior to the building, one hardscape equivalent in size to an outdoor basketball court size surface area and two goals per 300 students, four court to a maximum of three hardscapes.
 2. Exterior to the building, one baseball/softball backstop.
- B.** Concrete shall be used when installing basketball courts.

R7-6-751. ~~Alternate Delivery Method Repealed~~

If an alternate delivery method is used by the ASDB to deliver instruction in art, science, or vocational education, the alternate method must be approved by the ASDB governing board and be capable of meeting the requirements established in the academic standards prescribed by the State Board of Education for the specific subject area.

R7-6-755. ~~Parent Work Space Repealed~~

- A.** If parents are invited to assist with school activities, a school facility shall include a work space capable of being used by parents.
- B.** One square foot per student, with a minimum of 150 square feet and a maximum of 800 square feet, is required. The maximum may be exceeded. The space may be divided into more than one room. This space may have more than one function.

R7-6-756. ~~Two-way Internal Communication System~~

A school facility shall have a network and two-way two-way internal communication system between a central location and each classroom, library, physical education space, and the cafeteria each general and specialty classroom, the learning and technology center, and the cafeteria. The internal communication system shall have both audio and video capabilities.

R7-6-757. ~~Fire Alarm Repealed~~

A school facility shall have a fire alarm system as required by the State Fire Marshal. The fire alarm system shall meet current ADAAG requirements.

R7-6-758. ~~Administrative Space~~

- A.** A school facility shall have space for the use of by the administration of the school. For the school administrator, 150 designated square feet is required. For general administrative purposes, and additional 7.5 square feet per student is required, with a minimum of a space between 150 square feet and a maximum of 2,500 square feet. The maximum may be exceeded and 7.5 square feet per student, as reasonable for the size of the anticipated student body, is required.
- B.** A school facility shall have a dedicated space in which to isolate a sick student from the other students. This space shall be a designated space that is accessible to a restroom, and large enough to accommodate one cot per 50 students, with a maximum of eight cots. The maximum may be exceeded.
- C.** A school facility shall have work space available to the faculty. This space that is in addition to any work area available to a teacher, space in or near a classroom. One square foot per student with a maximum of A space between 150 square feet and a maximum of 800 square feet and one square foot per student, as reasonable for the size of the anticipated student body, is required. The maximum may be exceeded. The space may be divided into more than one room. This The faculty work space may be in multiple locations throughout the school facility and may have more than one function.
- D.** A 9,500 square foot facility used for the administration of the Arizona School for the Deaf and Blind shall also be available.



R7-6-760. Laws and Building Codes Repealed

- A.** To the extent required by law, school buildings shall be in compliance with federal, state and local building and fire codes and laws that are applicable to the particular building.
- B.** At a minimum, the 1997 Uniform Building Code (UBC) is required to be met for new school facility construction and, as required, for building renovations in existing schools.

R7-6-761. Energy Saving Measures Repealed

New school facility construction and, as required, building renovations in existing schools, shall include, where reasonable, energy conservation upgrades that will provide dollar savings in excess of the cost of the upgrade within eight years of the installation.

R7-6-765. Building Systems Repealed

- A.** Building systems in a school facility must be in working order and capable of being properly maintained. A building system shall be considered to be in “working order and capable of being maintained,” if all of the following:
 1. The system is capable of being operated as intended and maintained.
 2. Newly manufactured or refurbished replacement parts are available.
 3. The remaining life expectancy of the system, at the time of the initial statewide assessment, is at least three years.
 4. The system is capable of supporting the gross square footage standard and minimum school facility guidelines established in this Article.
 5. Components of the system present no imminent danger of personal injury.
- B.** Building systems include, as required by law, roof, plumbing, telephone, electrical, and heating and cooling systems as well as fire alarm, two way internal communication, computer cabling, and existing security systems.

R7-6-770. Building Structural Soundness Repealed

A school facility must be structurally sound. A school facility shall be considered structurally sound if the building presents no imminent danger or major visible signs of decay or distress, and the remaining life expectancy of the building structure appears to be at least a minimum of three years.

R7-6-771. Exterior Envelope, Interior Surfaces and Interior Finishes Repealed

The exterior envelope, interior surfaces, and interior finishes at school facilities must be safe and capable of being maintained.

1. An exterior envelope is safe and capable of being maintained if:
 - a. Walls and roof are weather tight under normal conditions with routine upkeep;
 - b. Doors and windows are weather tight under normal conditions with routine upkeep; and
 - c. The building structural systems support the loads imposed on them.
2. An interior surface is safe and capable of being maintained if it is:
 - a. Structurally sound;
 - b. Capable of supporting a finish; and
 - c. Capable of continuing in its intended use with normal maintenance and repair for at least three years after the initial statewide assessment.
3. An interior finish is safe and capable of being maintained if it is:
 - a. Free of exposed lead paint;
 - b. Free of friable asbestos; and
 - c. Capable of continuing in its intended use, with normal maintenance and repair, for at least three years after the initial statewide assessment.

R7-6-775. Minimum Gross Square Footage Repealed

The ASDB shall have sufficient school facilities, which comply with minimum school facility guidelines established in this Article, to meet the per pupil minimum adequate gross square footage requirements for the ASDB as determined by law, based on number and grade distribution of the students served by the ASDB.

R7-6-776. Assessment of Minimum Gross Square Footage Repealed

- A.** Computation of the gross square footage of a school facility may be by physical measure or by calculation based on architectural plan documents.
- B.** The gross square footage of a school facility equals all space within the facility excluding space used for ASDB administrative purposes.
- C.** The gross square footage of the ASDB shall equal the sum of the gross square footage of each school facility owned by the ASDB.
- D.** The minimum gross square footage of the ASDB equals the sum of the products of the students in each grade or program for pre-school children with disabilities or kindergarten program multiplied by the minimum adequate gross square footage requirements per pupil, applicable to the ASDB for such grade or program.
- E.** For the purpose of assessment of minimum gross square footage, the number of children in all grades and kindergarten shall be evenly distributed across all grades and kindergarten served by the ASDB.

R7-6-780. Student Boarding Space

Each ASDB campus shall provide safe and sanitary student boarding for resident ASDB students as follows:

1. A student dormitory consisting of a shared living area, ~~resident~~ and kitchen, and a bedroom for each student in ~~grades pre-school kindergarten~~ through grade 12, at a ratio of The student dormitory shall provide at least 400 square feet of space per student, and
2. A bedroom for each Resource housing at a ratio of 150 square feet per occupant,
3. One live-in assistant housing (apartment) for every eight resident students at a ratio of 500 square feet per live-in assistant.
4. One laundry room for every student dormitory. The laundry room shall provide at least at a ratio of 100 square feet of space for every eight resident students.



5. All independent living dormitory space shall be constructed with 300 square feet per student with no fewer than two students per dormitory.

R7-6-781. Facility Requirements for ASDB Program Requirement Facilities Programs

- ~~A.~~ Each ASDB campus shall provide ~~minimum facilities required~~ the following minimum square footage of space to support the ASDB audiology program specified: requirements at a ratio of five square feet per deaf student and one square foot per blind student:
- ~~1.~~ Audiology program. Five square feet per deaf student and one square foot per blind student;
 - ~~2.~~ Auditory training and speech therapy program. Three square feet per deaf student and one square foot per blind student;
 - ~~3.~~ Low-vision program. Three square feet per student;
 - ~~4.~~ Occupational and physical therapy program. Five square feet per student with a minimum of 1,500 square feet; and
 - ~~5.~~ Orientation and mobility program. Six square feet per blind student.
- ~~B.~~ Each ASDB campus shall provide ~~minimum facilities required to support ASDB auditory training and speech therapy program requirements at a ratio of three square feet per deaf student and one square foot per blind student.~~
- ~~C.~~ Each ASDB campus shall provide ~~minimum facilities required to support ASDB low vision program requirements at a ratio of three square feet per student.~~
- ~~D.~~ Each ASDB campus shall provide ~~minimum facilities required to support ASDB occupational and physical therapy program requirements at a ratio of five square feet per student with a minimum of 1,500 square feet.~~
- ~~E.~~ Each ASDB campus shall provide ~~minimum facilities required to support ASDB orientation and mobility program requirements at a ratio of six square feet per blind student.~~
- ~~F.~~ Each ASDB campus shall provide ~~a distance learning classroom required to support ASDB program requirements. This facility shall be at a minimum a 600 square foot separate/dedicated space for teaching to satellite, remote, and shared schools.~~

R7-6-782. Student Health Center

Each ASDB boarding campus shall have space for a student health center. ~~The student health center shall have at a ratio of least~~ 13 square feet of space per student.

R7-6-783. Parent Outreach Program Repealed

Each ASDB campus shall have space for a Parent Outreach Program at a ratio of 10 square feet per family with students enrolled at the campus with a minimum area of 300 square feet.

R7-6-790. Guidelines Exception Repealed

The Board may grant an exception from any of the guidelines requirements, upon agreement between the Board and the school district. The Board shall grant an exception if it determines that the intent of the guideline is capable of being met by the ASDB in an alternate manner. If the Board grants the exception, the ASDB shall be deemed to meet the guideline and is not eligible for state funding to meet the guideline.

NOTICES OF FINAL EXEMPT RULEMAKING

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

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

Questions about the interpretation of the final exempt rule should be addressed to the agency proposing them.

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

NOTICE OF FINAL EXEMPT RULEMAKING TITLE 9. HEALTH SERVICES CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION

[R20-190]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable)**

| | |
|-----------|---------------------------------|
| R9-22-730 | <u>Rulemaking Action</u> |
| R9-22-731 | Amend |
| | New Section |
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. §§ 36-2901.08, 36-2999.72
Implementing statute: A.R.S. §§ 36-2901.08, 36-2999.72
Statute authorizing the exemption: A.R.S. § 41-1005(A)(31), Laws 2020, Chapter 46, Section 3
- 3. The effective date of the rule:**

October 1, 2020

This date allows time for the invoices for the new rates to be available on or before October 15, 2020 or upon approval by CMS, whichever is later.
- 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:**

Not applicable
- 5. 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

6. 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. §§ 36-2999.72 and 36-2999.73 require AHCCCS to establish a second hospital assessment beginning October 1, 2020 and requires the Administration to deposit the monies into the Health Care Investment Fund (HCIF). Monies from the HCIF are to be used to 1) make directed payments to hospitals pursuant to 42 CFR § 438.6(c) that supplement the base reimbursement provided to hospitals for services provided to persons eligible for Title XIX services, 2) increase base reimbursement for services reimbursed under the dental fee schedule and physician fee schedule, and 3) to pay for the non-federal share of the costs for AHCCCS expenses to administer this program, not to exceed one percent of the total assessment monies collected.

The statute requires the Administration to adopt rules regarding the method for determining the assessment, the amount or rate of the assessment and modifications to or exemptions from the assessment. The Administration has structured the HCIF assessment similar to hospital assessment established under A.R.S. § 36-2901.08. Consistent with statute, both the existing assessment and the assessment proposed by this rule assess hospitals based on inpatient hospital discharges and total outpatient net patient revenue and uses the same peer groups as the original assessment.

In addition to establishing the HCIF assessment, the proposed rule makes modifications to the original assessment. A.R.S. § 36-2901.08 authorizes the Administration to establish, administer and collect an assessment on hospital revenues, discharges or bed days for funding a portion of the nonfederal share of the costs incurred beginning January 1, 2014, associated with eligible persons added to the program by A.R.S. §§ 36-2901.01 and 36-2901.07.

This rulemaking, in part, will amend rates paid by hospitals under the hospital assessment authorized by A.R.S. § 36-2901.08 for the time period beginning October 1, 2020. This assessment funds the cost of covered services to certain eligibility groups identified in the statute. As with prior rulemakings implementing the hospital assessment, it is the Agency's objective to assess only so



much as is necessary to meet the estimated costs associated with the projected populations referenced in the statute. As such, it is necessary for the Administration to adjust the assessment from time to time as the Administration updates its estimate of the number of eligible persons and projected cost associated with coverage for those persons.

At the assessment rates in the current rule, the Administration estimates that it would collect \$433 million over the course of a federal fiscal year. The amendments reflected in this proposed rule adjust the assessment rates such that the Administration anticipates the collection of \$534 million for the Federal Fiscal Year ending September 30, 2021. This amount corresponds to the amount of non-federal funds estimated to be necessary to cover the cost of providing care to the estimated 490,000 eligible individuals described in A.R.S. §36-2901.08(A) for Federal Fiscal year ending September 30, 2021. Moving forward, it is the Administrations’ intent to update both assessments at the beginning of each Federal Fiscal Year.

The rulemaking also renames the title of A.A.C. R9-22-730 “Hospital Assessment Fund” hospital assessment to distinguish it from the newly established HCIF hospital assessment. An additional amendment is proposed to assess freestanding children’s hospitals effective October 1, 2020. Previously, freestanding children’s hospitals were exempt from the assessment. Finally, the rulemaking removes the threshold for the outpatient component of the assessment.

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

No studies were conducted relevant to the rule.

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

Not applicable

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

The Administration estimates that \$534 million will be necessary to be collected from Arizona hospitals to fund the cost required by A.R.S. § 36-2901.08 for Federal Fiscal Year (FFY) 2021, ending September 30, 2021. The assessment amount currently in rule reflects the amount needed in SFY 2021 to cover the estimated cost of care, approximately \$433 million. The original SFY 2021 amount was determined earlier in the year and did not account for additional enrollment and costs associated with COVID-19. The amendment adjusts the rates upward to reflect the estimated need of \$534 million for FFY 2021.

The AHCCCS program is jointly funded by the State and the federal government through the Medicaid program. Depending on the eligibility category of the individual, the federal government provides between two-thirds and 90% of the cost of care for persons described in A.R.S. § 36.2901.08(A). The Administration will use the amounts collected from the assessment combined with the federal financial participation to fund the cost of health care coverage for an estimated 490,000 persons described in A.R.S. § 36.2901.08(A) through direct payments to health care providers and capitation payments to managed care organizations that, in turn, make payments to health care providers that render care to AHCCCS members.

Additionally, the Health Care Investment Fund hospital assessment established in A.R.S. § 36-2999.72 will be matched by federal funds. The majority of the assessment funds and accompanying federal funds will be used to provide an increase for base reimbursement for services reimbursed under the dental fee schedule and physician fee schedule and for quarterly supplemental payments to Arizona hospitals. Many of the providers of that medical care are considered small businesses located in Arizona.

A.R.S. §§ 36-2901.08 and 36-2999.72 prohibit the assessed hospitals from passing the cost of the assessment on to patients or third parties who pay for care in the hospital. In the aggregate, the Administration expects to return millions more in FFY 2021 in incremental payments for medical services than will be collected through the assessment. Along with a copy of this proposed exempt rule making, the Administration has posted to its website information regarding the fiscal impact of this amendment to hospitals: <https://azahcccs.gov/PlansProviders/CurrentProviders/State/proposedrules.html>

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

There were no changes between the proposed and final rulemaking.

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

| Name and Position of Commenter | Date of Comment | Text of Comment | AHCCCS Response |
|---|-----------------|---|--|
| Jennifer A. Carusetta, Executive Director – Health System Alliance of Arizona | 9/28/20 | <p>On behalf of the Health System Alliance of Arizona (Alliance), it is with great pleasure that we extend our support for the Notice of Proposed Rulemaking: Hospital Assessment Fund and Health Care Investment Fund.</p> <p>The Alliance would like to thank AHCCCS for its dedication and partnership in the implementation of the HEALTHIII Payments Program (“Program”). When this Program was first conceived more than two years ago, hospitals across Arizona were facing a \$1 billion shortfall in Medicaid reimbursement.</p> | <p>AHCCCS thanks Health System Alliance of Arizona for their support of this rulemaking. AHCCCS understands and recognizes that hospitals require time to plan for increases to the assessment and commits to continuing to engage with hospitals to provide this information as timely as possible.</p> |



| | | | |
|--|---------|--|---|
| Jennifer A. Carusetta (continued) | 9/28/20 | <p>This shortfall limited hospital economic development and the industry’s collective ability to grow to meet the needs of a booming population.</p> <p>Arizona hospitals and healthcare providers have since been devastated by lost patient volume and unprecedented outlays in the fight against the COVID-19 pandemic. What at one point was a fiscal shortfall has since become a financial crisis. The healthcare industry’s recovery is contingent upon the successful implementation of this Program. It is for this reason that we are so very grateful for the efforts and foresight of our Agency partners.</p> <p>We recognize that the development of the Program is an iterative process and that in the coming years, adjustments will be necessary to ensure that it continues to meet federal statistical and regulatory requirements. As an Alliance, we are committed to continuing to lend our resources and support to ensure the long-term sustainability of the Program.</p> <p>Please do not hesitate to contact me if I can provide any additional information.</p> | |
| Sean Murphy, Executive Director – Arizona Dental Association | 9/24/20 | <p>The Arizona Dental Association is grateful for the work of fellow dentist and State Representative Dr. Regina Cobb for sponsoring HB 2668 (hospitals; unreimbursed costs; assessment; fund) also known as the Health Care Investment Act. The legislation, signed into law at the end of March 2020, will help make Arizona’s healthcare system stronger by increasing AHCCCS payments so they can be slightly closer to the costs associated with providing care to these patients.</p> <p>The enactment of this legislation and the accompanying proposed rules will help provide financial feasibility to hospitals and will help support the network of providers to help hospitals and providers meet the needs of patients in their communities. AzDA would like to thank the legislators, and the Governor, who supported this important bill and appreciate the rules being crafted in a way to ensure that dental providers are brought back to their 2009/2010 rates. We appreciate the clarity of the legislation and the proposed rules that require insurance companies to pass through to the providers the entirety of the monies in these assessment Funds. As the summary of the proposed rules highlights: “the majority of the assessment funds will be used to provide an increase for base reimbursement for services reimbursed under the dental fee schedule.” We recognize the need for appropriate oversight and auditing capability to ensure these monies are given to the providers in a timely manner, and that contractors are prohibited from reducing contracted rates as a result of these payments.</p> <p>With over a decade without such a rate increase, and during the existing public health crisis that has further exasperated healthcare issues, these increased reimbursement rates are crucial to dental providers caring for AHCCCS patients across Arizona.</p> | <p>AHCCCS thanks the Arizona Dental Association for their support of this rulemaking. AHCCCS understands and recognizes that dental providers require time to plan for increases to the assessment and commits to continuing to engage with dental providers to provide this information as timely as possible.</p> |

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

No other matters 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:
The rulemaking must be established consistent with 42 CFR Part 433 Subpart B. The rule is not more stringent than federal law.



c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitive-ness 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:

No material is incorporated by reference.

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:

The rule was not made, amended or repealed as an emergency rule.

15. 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

R9-22-730. Hospital Assessment Fund - Hospital Assessment

R9-22-731. Health Care Investment Fund - Hospital Assessment

ARTICLE 7. STANDARD FOR PAYMENTS

R9-22-730. Hospital Assessment Fund - Hospital Assessment

- A. For purposes of this Section, the following terms are defined as provided below unless the context specifically requires another meaning:
1. "2018 Medicare Cost Report" means: The Medicare Cost Report for the hospital fiscal year ending in calendar year 2018 as reported in the CMS Healthcare Provider Cost Reporting Information System (HCRIS) release dated October 9, 2019.
 2. "2018 Uniform Accounting Report" means the Uniform Accounting Report submitted to the Arizona Department of Health Services as of November 6, 2019 for the hospital's fiscal year ending in calendar year 2018.
 3. "Quarter" means the three month period beginning January 1, April 1, July 1, and October 1 of each year.
 4. A "new hospital" means a licensed hospital that did not hold a license from the Arizona Department of Health Services prior to January 2, 2020.
 5. "Outpatient Net Patient Revenues" means an amount, calculated using data in the hospital's 2018 Uniform Accounting Report, that is equal to the hospital's 2018 total net patient revenue multiplied by the ratio of the hospital's 2018 gross outpatient revenue to the hospital's 2018 total gross patient revenue.
- B. Beginning January 1, 2014, for each Arizona licensed hospital not excluded under subsection (I) shall be subject to an assessment payable on a quarterly basis. The assessment shall be levied against the legal owner of each hospital as of the first day of the quarter, and except as otherwise required by subsections (D), (E) and (F). For the period beginning ~~July 1, 2020~~ October 1, 2020, the assessment for each hospital shall be amount equal to the sum of: (1) the number of discharges reported on the hospital's 2018 Medicare Cost Report, excluding discharges reported on the Medicare Cost Report as "Other Long Term Care Discharges," multiplied by the following rates appropriate to the hospital's peer group; and (2) the amount of outpatient net patient revenues multiplied by the following rate appropriate to the hospital's peer group:
1. ~~\$612.75~~ \$757.25 per discharge and ~~1.2078%~~ 1.4466% of outpatient net patient revenues for hospitals located in a county with a population less than 500,000 that are designated as type: hospital, subtype: short-term.
 2. ~~\$612.75~~ \$757.25 per discharge and ~~0.5033%~~ 0.6028% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: critical access hospital.
 3. ~~\$153.25~~ \$189.50 per discharge and ~~0.5033%~~ 0.6028% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: long term.
 4. ~~\$153.25~~ \$189.50 per discharge and ~~0.5033%~~ 0.6028% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: psychiatric, that reported 2,500 or more discharges on the 2018 Medicare Cost Report.
 5. ~~\$490.25~~ \$605.75 per discharge and ~~1.3085%~~ 1.5672% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: short-term with 20% of total licensed beds licensed as pediatric, pediatric intensive care and neonatal intensive care as reported in the hospital's 2018 Uniform Accounting Report.
 6. ~~\$551.50~~ \$681.50 per discharge and ~~1.5098%~~ 1.8083% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: short-term with at least 10% but less than 20% of total licensed beds licensed as pediatric, pediatric intensive care and neonatal intensive care as reported in the hospital's 2018 Uniform Accounting Report.
 7. \$151.50 per discharge and 0.4822% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: children's.
 - 7-8. ~~\$612.75~~ \$757.25 per discharge and ~~2.0131%~~ 2.4111% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: short-term not included in another peer group.
- C. Peer groups for the four quarters beginning ~~July~~ October 1 of each year are established based on hospital license type and subtype designated in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website January 2, 2020.



- D. Notwithstanding subsection (B), psychiatric discharges from a hospital that reported having a psychiatric sub-provider in the hospital's 2018 Medicare Cost Report, are assessed a rate of ~~\$153.25~~ \$189.50 for each discharge from the psychiatric sub-provider as reported in the 2018 Medicare Cost Report. All discharges other than those reported as discharges from the psychiatric sub-provider are assessed at the rate required by subsection (B).
- E. Notwithstanding subsection (B), rehabilitative discharges from a hospital that reported having a rehabilitative sub-provider in the hospital's 2018 Medicare Cost Report, are assessed a rate of \$0 for each discharge from the rehabilitative sub-provider as reported in the 2018 Medicare Cost Report. All discharges other than those reported as discharges from the rehabilitative sub-provider are assessed at the rate required by subsection (B).
- F. Notwithstanding subsection (B), for any hospital that reported more than 24,000 discharges on the hospital's 2018 Medicare Cost Report, discharges in excess of 24,000 are assessed a rate of ~~\$61.50~~ \$75.75 for each discharge in excess of 24,000. The initial 24,000 discharges are assessed at the rate required by subsection (B).
- ~~G.~~ ~~Notwithstanding subsection (B), for any hospital with more than \$300,000,000 in outpatient net patient revenues on the hospital's 2018 Uniform Account Report, outpatient revenues greater than \$300,000,000 are assessed a rate of 0.2013% for revenue in excess of \$300,000,000. Revenues at or below \$300,000,000 are assessed at the rate required by subsection (B).~~
- G.H.** Hospital Assessment Fund Assessment notice. On or before the 15th day of the first month of the quarter or upon CMS approval, whichever is later, the Administration shall send to each hospital a notification that the Hospital Assessment Fund assessment invoice is available to be viewed on a secure website. The invoice shall include the hospital's peer group assignment and the assessment due for the quarter.
- H.H.** Assessment due date. The Hospital Assessment Fund assessment must be received by the Administration no later than:
 1. The 15th day of the second month of the quarter or
 2. In the event CMS approves the assessment after the 15th day of the first month of the quarter, 30 days after notification by the Administration that the Hospital Assessment Fund assessment invoice is available.
- J.** Excluded hospitals. The following hospitals are excluded from the assessment based on the hospital's 2018 Medicare Cost Report and Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for January 2, 2020:
 1. Hospitals owned and operated by the state, the United States, or an Indian tribe.
 2. Hospitals designated as type: hospital, subtype: short-term that have a license number beginning "SH".
 3. Hospitals designated as type: hospital, subtype: psychiatric that reported fewer than 2,500 discharges on the 2018 Medicare Cost Report.
 4. Hospitals designated as type: hospital, subtype: rehabilitation.
 - ~~5. Hospitals designated as type: hospital, subtype: children's.~~
 - ~~56.~~ Hospitals designated as type: med-hospital, subtype: special hospitals.
 - ~~67.~~ Hospitals designated as type: hospital, subtype: short-term located in a city with a population greater than one million, which on average have at least 15 percent of inpatient days for patients who reside outside of Arizona, and at least 50 percent of discharges as reported on the 2018 Medicare Cost Report are reimbursed by Medicare.
 - ~~78.~~ Hospitals designated as type: hospital, subtype: short-term that have at least 25 percent Medicare swing beds as percentage of total Medicare days, per the 2018 Medicare Cost Report.
- K.** New hospitals. For hospitals that did not file a 2018 Medicare Cost Report because of the date the hospital began operations:
 1. If the hospital was open on the January 2 preceding the ~~July-October~~ assessment start date, the hospital Hospital Assessment Fund assessment will begin on ~~July-October 1~~ following the date the hospital began operating.
 2. If the hospital began operating between January 3 and June 30, the assessment will begin on July-October 1 of the following calendar year.
 3. A hospital is not considered a new hospital based on a change in ownership.
 4. The assessment will be based on the discharges reported in the hospital's first Medicare Cost Report and Uniform Accounting Report, which includes 12 months-worth of data, except when any of the following apply;
 - a. If there is not a complete 12 months-worth of data available, the assessment will be based on the annualized number of discharges from the date hospital operations began through December 31 preceding the July-October assessment start date. The hospital shall self-report the discharge data and all other data requested by the Administration necessary to determine the appropriate assessment to the Administration no later than January preceding the assessment start date for the new hospitals. "Annualized" means divided by a ratio equal to the number of months of data divided by 12 months.
 - b. If more than 12 months of data is available, the assessment will be based on the most recent 12 months of self-reported data, as of December 31;
 5. For purposes of calculating subpart 4, if a new hospital shares a Medicare Identification Number with an existing hospital, the assessment amount will be based on self-reported data from the new hospital instead of the Medicare Cost Report. The data shall include the number of discharges and all other data requested by the Administration necessary to determine the appropriate assessment.
 6. For hospitals providing self-reported data, described in subpart 4 and 5:
 - a. Psychiatric discharges will be annualized to determine if subsections (B)(4) or (I)(3) apply to the assessment amount.
 - b. Discharges will be annualized to determine if subsection (F) applies to the assessment amount.
- L.** Changes of ownership. The parties to a change of ownership shall promptly provide written notice to the Administration of a change of ownership and any agreement regarding the payment of the Hospital Assessment Fund assessment. The assessed amount will continue at the same amount applied to the prior owner. Assessments are the responsibility of the owner of record as of the first day of the quarter; however, this rule is not intended to prohibit the parties to a change of ownership from entering into an agreement for a new owner to assume the assessment responsibility of the owner of record as of the first day of the prior quarter.
- M.** Hospital closures. Hospitals that close shall pay a proportion of the quarterly Hospital Assessment Fund assessment equal to that portion of the quarter during which the hospital operated.



- N. Required information for the inpatient Hospital Assessment Fund assessment. For any hospital that has not filed a 2018 Medicare Cost report, or if the 2018 Medicare Cost report does not include the reliable information sufficient for the Administration to calculate the inpatient assessment, the Administration shall use data reported on the 2018 Uniform Accounting Report filed by the hospital in place of the 2018 Medicare Cost report to calculate the assessment. If the 2018 Uniform Accounting Report filed by the hospital does not include reliable information sufficient for the Administration to calculate the inpatient assessment amounts, the hospital shall provide the Administration with data specified by the Administration necessary in place of the 2018 Medicare Cost report to calculate the assessment.
- O. Required information for the outpatient Hospital Assessment Fund assessment. For any hospital that has not filed a 2018 Uniform Accounting Report, or if the 2018 Uniform Accounting Report does not reconcile to 2018 Audited Financial Statements, the Administration shall use the data reported on 2018 Audited Financial Statements to calculate the outpatient assessment. If the 2018 Audited Financial Statements do not include the reliable information sufficient for the Administration to calculate the outpatient assessment, the Administration all use data reported on the 2018 Medicare Cost report. If the Medicare Cost report does not include reliable information sufficient for the Administration to calculate the outpatient assessment amounts, the hospital shall provide the Administration with data specified by the Administration necessary in place of the 2018 Medicare Cost report to calculate the outpatient assessment.
- P. The Administration will review and update as necessary rates and peer groups periodically to ensure the Hospital Assessment Fund assessment is sufficient to fund the state match obligation to cover the cost of the populations as specified in 36-2901.08.
- Q. Enforcement. If a hospital does not comply with this section, the director may suspend or revoke the hospital's provider agreement. If the hospital does not comply within 180 days after the hospital's provider agreement is suspended or revoked, the director shall notify the director of the Department of Health Services who shall suspend or revoke the hospital's license.

R9-22-731. Health Care Investment Fund - Hospital Assessment

- A. For purposes of this Section, terms are the same as defined in R9-22-730 as provided below unless the context specifically requires another meaning:
- B. Beginning October 1, 2020, for each Arizona licensed hospital not excluded under subsection (I) shall be subject to an assessment payable on a quarterly basis. The assessment shall be levied against the legal owner of each hospital as of the first day of the quarter, and except as otherwise required by subsections (D), (E) and (F). For the period beginning October 1, 2020, the assessment for each hospital shall be amount equal to the sum of: (1) the number of discharges reported on the hospital's 2018 Medicare Cost Report, excluding discharges reported on the Medicare Cost Report as "Other Long Term Care Discharges," multiplied by the following rates appropriate to the hospital's peer group; and (2) the amount of outpatient net patient revenues multiplied by the following rate appropriate to the hospital's peer group:
1. \$151.50 per discharge and 2.5886% of outpatient net patient revenues for hospitals located in a county with a population less than 500,000 that are designated as type: hospital, subtype: short-term.
 2. \$151.50 per discharge and 1.0786% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: critical access hospital.
 3. \$38.00 per discharge and 1.0786% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: long term.
 4. \$38.00 per discharge and 1.0786% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: psychiatric, that reported 2,500 or more discharges on the 2018 Medicare Cost Report.
 5. \$121.25 per discharge and 2.8043% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: short-term with 20% of total licensed beds licensed as pediatric, pediatric intensive care and neonatal intensive care as reported in the hospital's 2018 Uniform Accounting Report.
 6. \$136.50 per discharge and 3.2357% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: short-term with at least 10% but less than 20% of total licensed beds licensed as pediatric, pediatric intensive care and neonatal intensive care as reported in the hospital's 2018 Uniform Accounting Report.
 7. \$30.50 per discharge and 0.8629% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: children's.
 8. \$151.50 per discharge and 4.3143% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: short-term not included in another peer group.
- C. Peer groups for the four quarters beginning October 1 of each year are established based on hospital license type and subtype designated in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website January 2, 2020.
- D. Notwithstanding subsection (B), psychiatric discharges from a hospital that reported having a psychiatric sub-provider in the hospital's 2018 Medicare Cost Report, are assessed a rate of \$38.00 for each discharge from the psychiatric sub-provider as reported in the 2018 Medicare Cost Report. All discharges other than those reported as discharges from the psychiatric sub-provider are assessed at the rate required by subsection (B).
- E. Notwithstanding subsection (B), rehabilitative discharges from a hospital that reported having a rehabilitative sub-provider in the hospital's 2018 Medicare Cost Report, are assessed a rate of \$0 for each discharge from the rehabilitative sub-provider as reported in the 2018 Medicare Cost Report. All discharges other than those reported as discharges from the rehabilitative sub-provider are assessed at the rate required by subsection (B).
- F. Notwithstanding subsection (B), for any hospital that reported more than 24,000 discharges on the hospital's 2018 Medicare Cost Report, discharges in excess of 24,000 are assessed a rate of \$15.25 for each discharge in excess of 24,000. The initial 24,000 discharges are assessed at the rate required by subsection (B).
- G. Assessment notice. On or before the 20th day of the first month of the quarter or upon CMS approval, whichever is later, the Administration shall send to each hospital a notification that the assessment invoice is available to be viewed on a secure website. The invoice shall include the hospital's peer group assignment and the assessment due for the quarter.
- H. Assessment due date. The assessment must be received by the Administration no later than the 20th day of the second month of the quarter.



- I.** Excluded hospitals. The following hospitals are excluded from the assessment based on the hospital’s 2018 Medicare Cost Report and Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for January 2, 2020:
 - 1. Hospitals owned and operated by the state, the United States, or an Indian tribe.
 - 2. Hospitals designated as type: hospital, subtype: short-term that have a license number beginning “SH”.
 - 3. Hospitals designated as type: hospital, subtype: psychiatric that reported fewer than 2,500 discharges on the 2018 Medicare Cost Report.
 - 4. Hospitals designated as type: hospital, subtype: rehabilitation.
 - 5. Hospitals designated as type: med-hospital, subtype: special hospitals.
 - 6. Hospitals designated as type: hospital, subtype: short-term located in a city with a population greater than one million, which on average have at least 15 percent of inpatient days for patients who reside outside of Arizona, and at least 50 percent of discharges as reported on the 2018 Medicare Cost Report are reimbursed by Medicare.
 - 7. Hospitals designated as type: hospital, subtype: short-term that have at least 25 percent Medicare swing beds as percentage of total Medicare days, per the 2018 Medicare Cost Report.
- J.** New hospitals. For hospitals that did not file a 2018 Medicare Cost Report because of the date the hospital began operations:
 - 1. If the hospital was open on the January 2 preceding the October assessment start date, the hospital assessment will begin on October 1 following the date the hospital began operating.
 - 2. If the hospital began operating between January 3 and June 30, the assessment will begin on October 1 of the following calendar year.
 - 3. A hospital is not considered a new hospital based on a change in ownership.
 - 4. The assessment will be based on the discharges reported in the hospital’s first Medicare Cost Report and Uniform Accounting Report, which includes 12 months-worth of data, except when any of the following apply:
 - a. If there is not a complete 12 months-worth of data available, the assessment will be based on the annualized number of discharges from the date hospital operations began through December 31 preceding the October assessment start date. The hospital shall self-report the discharge data and all other data requested by the Administration necessary to determine the appropriate assessment to the Administration no later than January preceding the assessment start date for the new hospitals. “Annualized” means divided by a ratio equal to the number of months of data divided by 12 months.
 - b. If more than 12 months of data is available, the assessment will be based on the most recent 12 months of self-reported data, as of December 31;
 - 5. For purposes of calculating subpart 4, if a new hospital shares a Medicare Identification Number with an existing hospital, the assessment amount will be based on self-reported data from the new hospital instead of the Medicare Cost Report. The data shall include the number of discharges and all other data requested by the Administration necessary to determine the appropriate assessment.
 - 6. For hospitals providing self-reported data, described in subpart 4 and 5:
 - a. Psychiatric discharges will be annualized to determine if subsections (B)(4) or (I)(3) apply to the assessment amount.
 - b. Discharges will be annualized to determine if subsection (F) applies to the assessment amount.
- L.** Changes of ownership. The parties to a change of ownership shall promptly provide written notice to the Administration of a change of ownership and any agreement regarding the payment of the assessment. The assessed amount will continue at the same amount applied to the prior owner. Assessments are the responsibility of the owner of record as of the first day of the quarter; however, this rule is not intended to prohibit the parties to a change of ownership from entering into an agreement for a new owner to assume the assessment responsibility of the owner of record as of the first day of the prior quarter.
- M.** Hospital closures. Hospitals that close shall pay a proportion of the quarterly assessment equal to that portion of the quarter during which the hospital operated.
- N.** Required information for the inpatient assessment. For any hospital that has not filed a 2018 Medicare Cost report, or if the 2018 Medicare Cost report does not include the reliable information sufficient for the Administration to calculate the inpatient assessment, the Administration shall use data reported on the 2018 Uniform Accounting Report filed by the hospital in place of the 2018 Medicare Cost report to calculate the assessment. If the 2018 Uniform Accounting Report filed by the hospital does not include reliable information sufficient for the Administration to calculate the inpatient assessment amounts, the hospital shall provide the Administration with data specified by the Administration necessary in place of the 2018 Medicare Cost report to calculate the assessment.
- O.** Required information for the outpatient assessment. For any hospital that has not filed a 2018 Uniform Accounting Report, or if the 2018 Uniform Accounting Report does not reconcile to 2018 Audited Financial Statements, the Administration shall use the data reported on 2018 Audited Financial Statements to calculate the outpatient assessment. If the 2018 Audited Financial Statements do not include the reliable information sufficient for the Administration to calculate the outpatient assessment, the Administration all use data reported on the 2018 Medicare Cost report. If the Medicare Cost report does not include reliable information sufficient for the Administration to calculate the outpatient assessment amounts, the hospital shall provide the Administration with data specified by the Administration necessary in place of the 2018 Medicare Cost report to calculate the outpatient assessment.
- P.** Enforcement. If a hospital does not comply with this section, the director may suspend or revoke the hospital’s provider agreement. If the hospital does not comply within 180 days after the hospital’s provider agreement is suspended or revoked, the director shall notify the director of the Department of Health Services who shall suspend or revoke the hospital’s license.



NOTICES OF EXEMPT RULEMAKING

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

It is not uncommon for an agency to be exempt from all steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act (APA) or Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10.

An agency's exemption is either written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters; or a court has

determined that an agency, board or commission is exempt from the rulemaking process.

The Office makes a distinction between certain exemptions as provided in these laws, on a case by case basis, as determined by an agency. Other rule exemption types are published elsewhere in the *Register*.

Notices of Exempt Rulemaking as published here were made with no special conditions or restrictions; no public input; no public hearing; and no filing of a Proposed Exempt Rulemaking.

**NOTICE OF EXEMPT RULEMAKING
TITLE 9. HEALTH SERVICES
CHAPTER 17. DEPARTMENT OF HEALTH SERVICES
MEDICAL MARIJUANA PROGRAM**

[R20-191]

PREAMBLE

- 1. Article, Part or Section Affected (as applicable)**

| <u>Article, Part or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|--------------------------|
| R9-17-314 | Amend |
| R9-17-317 | Amend |
| R9-17-317.01 | Amend |
| Table 3.1 | Amend |
| R9-17-404.03 | Amend |

- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**
 Authorizing statutes: A.R.S. §§ 36-132(A)(1) and 36-136(G)
 Implementing statutes: A.R.S. §§ 36-2803, 36-2804.01, 36-2804.06, 36-2804.07, 36-2806, and 36-2819
 Statute or session law authorizing the exemption: Laws 2019, Ch. 318, § 15

- 3. The effective date of the rule and the agency's reason it selected the effective date:**
 November 1, 2020
 This is the date of filing that dispensaries and laboratories must implement the requirements of the rules for testing marijuana and marijuana products prior to dispensing, according to A.R.S. § 36-2803. This rulemaking removes phase-in language and lessens the burden for the required testing.

- 4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**
 Notice of Public Information: 25 A.A.R. 2057, August 9, 2019
 Notice of Exempt Rulemaking: 25 A.A.R. 2421, September 20, 2019
 Notice of Exempt Rulemaking: 26 A.A.R. 734, April 24, 2020
 Notice of Exempt Rulemaking: 26 A.A.R. 968, May 15, 2020
 Notice of Exempt Rulemaking: 26 A.A.R. 1905, September 18, 2020
 Notice of Exempt Rulemaking: 26 A.A.R. 2848, November 6, 2020

- 5. The agency's contact person who can answer questions about the rulemaking:**
 Name: Thomas Salow, Branch Chief
 Address: Department of Health Services
 Public Health Licensing Services
 150 N. 18th Ave., Suite 400
 Phoenix, AZ 85007
 Telephone: (602) 364-1935
 Fax: (602) 364-3808
 E-mail: Thomas.Salow@azdhs.gov
 or
 Name: Robert Lane, Office Chief
 Address: Department of Health Services
 Office of Administrative Counsel and Rules
 150 N. 18th Ave., Suite 200



Phoenix, AZ 85007

Telephone: (602) 542-1020

Fax: (602) 364-1150

E-mail: Robert.Lane@azdhs.gov

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

Arizona Revised Statutes (A.R.S.) Chapter 28.1, as amended by Laws 2019, Ch. 318, requires the Arizona Department of Health Services (Department) to adopt rules to certify and regulate independent third-party laboratories (laboratories) and independent third-party laboratory agents (laboratory agents) that analyze cultivated marijuana. The rules in A.A.C. Title 9, Chapter 17, specify the requirements for the Medical Marijuana Program, and the Department is revising these rules to comply with Laws 2019, Ch. 318. The Department began this rulemaking by establishing requirements for the certification and regulation of laboratories and laboratory agents and changing the time period for the validity of registration identification cards and registration certificates, in rules effective as of August 27, 2019. The Department continued the rulemaking by establishing requirements, effective April 2, 2020, related to laboratory testing to enable dispensaries to test marijuana and marijuana product before dispensing by November 1, 2020, as required by A.R.S. § 36-2803(E). The Department made additional changes to provide clarity, improve implementation, and reduce the burden on dispensaries and laboratories in rulemakings effective April 22, 2020; September 18, 2020; and October 15, 2020. After receiving input from stakeholders and other states, the Department is now further revising the rules to make them as effective but less burdensome by removing phase-in language, making the information that a dispensary receives from another dispensary providing marijuana or a marijuana product to the dispensary consistent with the information that the dispensary is required to provide when dispensing the medical marijuana or marijuana product, clarifying reporting units for potency testing, and lessening the burden for the required testing.

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 rely on any study in making these changes to the rules.

8. A showing of good cause why the rule 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. The summary of the economic, small business, and consumer impact, if applicable:

Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):

Not applicable

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

Not applicable

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

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

A registration certificate for a dispensary, issued according to A.R.S. § 36-2804, or laboratory, issued according to A.R.S. § 36-2804.07, is specific to the certificate holder, type of facility, facility location, and scope of services provided. As such, a general permit is not applicable and is not used. Except when associated with authorization for the cultivation of marijuana, a registry identification card for a qualifying patient, designated caregiver, dispensary agent, or laboratory agent is a general permit.

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

13. A list of any incorporated by reference material and its location in the rules:

Although not changed in this rulemaking, the following incorporation by reference is included in R9-17-317.01: ANSI/ASQ Standard Z1.4 (2018), General Inspection Level II, available at <https://asq.org/quality-resources/z14-z19>.

14. Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:



TITLE 9. HEALTH SERVICES
CHAPTER 17. DEPARTMENT OF HEALTH SERVICES
MEDICAL MARIJUANA PROGRAM

ARTICLE 3. DISPENSARIES AND DISPENSARY AGENTS

Section

- R9-17-314. Dispensing Medical Marijuana
R9-17-317. Product Labeling
R9-17-317.01. Analysis of Medical Marijuana or a Marijuana Product
Table 3.1. Analytes

ARTICLE 4. LABORATORIES AND LABORATORY AGENTS

Section

- R9-17-404.03. Method Criteria and References for Chemical Analyses

ARTICLE 3. DISPENSARIES AND DISPENSARY AGENTS

R9-17-314. Dispensing Medical Marijuana

A. Before a dispensary agent dispenses medical marijuana or a marijuana product to a qualifying patient or a designated caregiver, the dispensary agent shall:

1. Verify the qualifying patient's or the designated caregiver's identity,
2. Offer any appropriate patient education or support materials,
3. Make available the results of testing of the medical marijuana or marijuana product required in R9-17-317.01(A), if requested by the qualifying patient or designated caregiver;
4. Enter the qualifying patient's or designated caregiver's registry identification number on the qualifying patient's or designated caregiver's registry identification card into the medical marijuana electronic verification system,
5. Verify the validity of the qualifying patient's or designated caregiver's registry identification card,
6. Verify that the amount of medical marijuana or marijuana product the qualifying patient or designated caregiver is requesting would not cause the qualifying patient to exceed the limit on obtaining no more than two and one-half ounces of medical marijuana during any 14-calendar-day period, and
7. Enter the following information into the medical marijuana electronic verification system for the qualifying patient or designated caregiver:
 - a. The amount of medical marijuana dispensed,
 - b. Whether the medical marijuana was dispensed to the qualifying patient or to the qualifying patient's designated caregiver,
 - c. The date and time the medical marijuana was dispensed,
 - d. The dispensary agent's registry identification number, and
 - e. The dispensary's registry identification number.

B. A dispensary shall ensure that medical marijuana or a marijuana product provided by the dispensary to a qualifying patient or a designated caregiver is dispensed in a container made of material that will not react with or leach into the medical marijuana or marijuana product.

R9-17-317. Product Labeling

- A.** A dispensary shall ensure that medical marijuana or a marijuana product provided by the dispensary to a qualifying patient or a designated caregiver is labeled with:
1. The dispensary's registry identification number;
 2. The amount, strain, and batch number of the medical marijuana or marijuana product;
 3. The form of the medical marijuana or marijuana product;
 4. As applicable, the weight of the medical marijuana or marijuana product;
 5. ~~Beginning November 1, 2020, and in~~ In compliance with Table 3.1, the potency of the medical marijuana or marijuana product, based on laboratory testing results, including the number of milligrams per designated unit or percentage of:
 - a. Total tetrahydrocannabinol, reported according to R9-17-404.03(S)(2)(a);
 - b. Total cannabidiol, reported according to R9-17-404.03(S)(2)(b); and
 - c. Any other cannabinoid for which the dispensary is making a claim related to the effect of the cannabinoid on the human body;
 6. The following statement: "ARIZONA DEPARTMENT OF HEALTH SERVICES' WARNING: Marijuana use can be addictive and can impair an individual's ability to drive a motor vehicle or operate heavy machinery. Marijuana smoke contains carcinogens and can lead to an increased risk for cancer, tachycardia, hypertension, heart attack, and lung infection. KEEP OUT OF REACH OF CHILDREN";
 7. If not cultivated by the dispensary, whether the medical marijuana was obtained from a qualifying patient, a designated caregiver, or another dispensary;
 8. If not infused or prepared for sale by the dispensary, whether the marijuana product was obtained from another dispensary;
 9. For a marijuana product, the ingredients in order of abundance;
 10. The date of manufacture, harvest, or sale; and
 11. The registry identification number of the qualifying patient.
- B.** If a dispensary provides medical marijuana cultivated, or a marijuana product infused or prepared for sale, by the dispensary to another dispensary, the dispensary shall ensure that:



- 1. The medical marijuana or marijuana product is labeled with:
 - a. The dispensary’s registry identification number;
 - b. The amount, strain, and batch number of the medical marijuana or marijuana product; and
 - c. The date of manufacture, harvest, or sale; and
- 2. A copy of laboratory testing results for the medical marijuana or marijuana product is provided to the receiving dispensary.
- ~~C. Until November 1, 2020, a dispensary shall ensure that medical marijuana or a marijuana product provided by the dispensary to a qualifying patient or designated caregiver either:

 - 1. Is labeled with a list of all chemical additives, including nonorganic pesticides, herbicides, and fertilizers, used in the cultivation and production of the medical marijuana; or
 - 2. Complies with requirements in R9-17-317.01.~~
- ~~D. Until November 1, 2020, if a dispensary provides medical marijuana cultivated by the dispensary to another dispensary, the dispensary shall ensure that the medical marijuana is labeled with a list of all chemical additives, including nonorganic pesticides, herbicides, and fertilizers, used in the cultivation of the medical marijuana.~~

R9-17-317.01. Analysis of Medical Marijuana or a Marijuana Product

- A. ~~Beginning on November 1, 2020, before~~ Before offering a batch of medical marijuana or of a marijuana product for sale or dispensing to a qualifying patient or designated caregiver, a dispensary shall ensure that:
 - 1. ~~each~~ Except as provided in subsection (A)(2), each batch of medical marijuana or marijuana product is tested in compliance with requirements in R9-17-404.03, R9-17-404.04, and Table 3.1; and
 - 2. Each batch of a marijuana product is tested according to requirements in R9-17-404.03, R9-17-404.04, and Table 3.1 for at least potency and microbial contaminants other than mycotoxins if the marijuana product was prepared from another marijuana product, such as a concentrate or tincture, that is in compliance with requirements in R9-17-404.03, R9-17-404.04, and Table 3.1, using none of the following:
 - a. A temperature above which any analyte could chemically decompose or react with a component of the marijuana product;
 - b. A pressure above which any analyte could chemically decompose or react with a component of the marijuana product;
 - c. A process by which any analyte in the marijuana product that is in compliance with requirements in R9-17-404.03, R9-17-404.04, and Table 3.1 may be further concentrated; or
 - d. A solvent other than water.
- B. A dispensary shall ensure that:
 - 1. Until laboratory testing has been completed and testing results received by the dispensary that comply with requirements in R9-17-404.03, R9-17-404.04, and Table 3.1, a batch of marijuana or of a marijuana product is stored in a location away from medical marijuana and marijuana products offered for dispensing;
 - 2. Only one sample of each batch of medical marijuana or marijuana product is collected according to ANSI/ASQ Standard Z14 (2018), General Inspection Level II, incorporated by reference, including no future editions, and available at <https://asq.org/quality-resources/z14-z19>, including:
 - a. Use, as applicable, of one of the following sampling methods:
 - i. Top, middle, and bottom sampling using a sample thief, a device consisting of two nested tubes with one or more aligned slots through which a sample may be collected and then sealed into the inner tube by rotating the outer tube;
 - ii. Star pattern sampling from the top, middle, and bottom of each storage container;
 - iii. Collecting discrete incremental units of a batch, such as every tenth unit or every twentieth drop; or
 - iv. Quartering until the sample reaches the size specified in subsection (B)(3); and
 - b. For sampling methods specified in subsections (B)(2)(a)(i) through (iii), quartering the volume of the aggregated portions collected to obtain the sample size specified in subsection (B)(3);
 - 3. The size of the sample provided to a laboratory is sufficient for testing and, if necessary, retesting;
 - 4. Each sample in subsection (B)(3) is packaged in a container made of:
 - a. ~~the~~ The same material that would be used for dispensing, or
 - b. Another material that will not react with or leach into the sample;
 - 5. Each packaged sample is labeled with the:
 - a. The dispensary’s registry identification number;
 - b. The amount, strain, and batch number of the medical marijuana or marijuana product;
 - c. The storage temperature for the medical marijuana or marijuana product; and
 - d. The date of sampling;
 - 6. A packaged sample in subsection (B)(4) is submitted to a laboratory that:
 - a. Has a laboratory registration certificate issued by the Department, and
 - b. Is approved for testing by the Department for an analyte for which testing is being requested;
 - 7. Except as specified in subsections ~~(A)(2)~~ (A)(2) and (C)(1) or (3)(b), as applicable, the samples in subsection (B)(4) are tested for each analyte specified in Table 3.1 by a laboratory that is approved by the Department for testing the analyte;
 - 8. Only batches of marijuana or marijuana products for which laboratory testing results in subsection (B)(7) are in compliance with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1 are offered for sale or dispensing; and
 - 9. Except as provided in subsection (C), any batch of marijuana or marijuana product that does not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1 is remediated, if applicable, or destroyed according to policies and procedures.
- C. If a dispensary receives a final report of testing, specified in R9-17-404.06(B)(3), from a laboratory that indicates that a batch of marijuana or marijuana product does not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1, the dispensary:
 - 1. Within seven days after receiving the final report of testing, may request retesting of the remaining portion of the sample in subsection (B)(4) for all analytes that do not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1 by a second, independent laboratory that is approved by the Department for testing the analytes;



2. If the final report of testing from the second, independent laboratory indicates that any analyte tested for according to subsection (C)(1) does not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1, shall remediate, if applicable, or destroy the batch of marijuana or marijuana product according to policies and procedures;
 3. If the final report of testing from the second, independent laboratory indicates that all analytes tested for according to subsection (C)(1) comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1:
 - a. Shall ensure that the batch of medical marijuana or marijuana product is not offered for sale or dispensing; and
 - b. May request retesting of the remaining portion of the sample in subsection (B)(4) for the analytes that do not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1 by a third, independent laboratory that is approved by the Department for testing the analytes; and
 4. If the dispensary requested retesting of the remaining portion of the sample in subsection (B)(4) for an analyte by a third, independent laboratory according to subsection (C)(3)(b):
 - a. If the final report of testing from the third, independent laboratory indicates that the analyte tested for according to subsection (C)(3) complies with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1, may offer the batch of medical marijuana or marijuana product for sale or dispensing; and
 - b. If the final report of testing from the third, independent laboratory indicates that an analyte tested for according to subsection (C)(3) does not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1, shall remediate, if applicable, or destroy the batch of medical marijuana or marijuana product according to policies and procedures.
- D.** A dispensary shall ensure that remediation of a batch of marijuana or of a marijuana product that has undergone laboratory testing and does not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1:
1. Is performed according to policies and procedures,
 2. Uses a method that is appropriate to address an analyte not in compliance with Table 3.1, and
 3. Does not introduce or produce a substance in a concentration that is known to be harmful to humans.
- E.** If a batch of medical marijuana or a marijuana product is remediated, a dispensary shall submit samples from the remediated batch for laboratory testing according to subsection (B).
- F.** A dispensary shall provide to the Department upon request a sample of the dispensary’s inventory of medical marijuana or a marijuana product of sufficient quantity to enable the Department to conduct an analysis of the medical marijuana or marijuana product.

Table 3.1. Analytes

Key:

CAS Number = Chemical Abstract Services Registry number

CFU = Colony-forming unit, a method to estimate the number of viable bacteria or fungal cells in a sample

* = Testing for the analyte required beginning May 1, 2021

| A. Microbial Contaminants | | |
|---|---|--|
| Analyte | Maximum Allowable Contaminants | Required Action |
| <i>Escherichia coli</i> | 100 CFU/g | Remediate and retest, or Destroy |
| <i>Salmonella</i> spp. | Detectable in 1 gram | Destroy |
| <i>Aspergillus flavus</i> <i>Aspergillus fumigatus</i> <i>Aspergillus niger</i> <i>Aspergillus terreus</i> | Inhalable: Detectable in 1 gram | Remediate and retest, Remediate and use for preparing an extract or a concentrate, or Destroy |
| *Mycotoxins: Aflatoxin B1, B2, G1, and G2 Ochratoxin A | Marijuana product, except a marijuana product intended for topical application, prepared from an extract or concentrate of medical marijuana: 20 µg/kg (ppb) of total aflatoxins 20 µg/kg (ppb) of ochratoxin | Destroy |

| B. Heavy Metals | | |
|------------------------|---------------------------------|----------------------------------|
| Analyte | Maximum Allowable Concentration | Required Action |
| Arsenic | 0.4 ppm | Remediate and retest, or Destroy |
| Cadmium | 0.4 ppm | |
| Lead | 1.0 ppm | |
| Mercury | 1.2 ppm | |

| C. Residual Solvents | | | |
|-----------------------------|------------|---------------------------------|----------------------------------|
| Analyte | CAS Number | Maximum Allowable Concentration | Required Action |
| Acetone | 67-64-1 | 1,000 ppm | Remediate and retest, or Destroy |
| Acetonitrile | 75-05-8 | 410 ppm | |
| Benzene | 71-43-2 | 2 ppm | |



| | | | |
|--|---|-----------|--|
| Butanes (measured as the cumulative residue of n-butane and iso-butane) | 106-97-8 and 75-28-5, respectively | 5,000 ppm | |
| Chloroform | 67-66-3 | 60 ppm | |
| Dichloromethane | 75-09-2 | 600 ppm | |
| Ethanol | 64-17-5 | 5,000 ppm | |
| Ethyl Acetate | 141-78-6 | 5,000 ppm | |
| Ethyl Ether | 60-29-7 | 5,000 ppm | |
| Heptane | 142-82-5 | 5,000 ppm | |
| Hexanes (measured as the cumulative residue of n-hexane, 2-methylpentane, 3-methylpentane, 2,2-dimethylbutane, and 2,3-dimethylbutane) | 110-54-3, 107-83-5, 96-14-0, 75-83-2, and 79-29-8, respectively | 290 ppm | |
| Isopropyl Acetate | 108-21-4 | 5,000 ppm | |
| Methanol | 67-56-1 | 3,000 ppm | |
| Pentanes (measured as the cumulative residue of n-pentane, iso-pentane, and neo-pentane) | 109-66-0, 78-78-4, and 463-82-1, respectively | 5,000 ppm | |
| 2-Propanol (IPA) | 67-63-0 | 5,000 ppm | |
| Propane | 74-98-6 | 5,000 ppm | |
| Toluene | 108-88-3 | 890 ppm | |
| Xylenes (measured as the cumulative residue of 1,2-dimethylbenzene, 1,3-dimethylbenzene, and 1,4-dimethylbenzene, and the non-xylene, ethyl benzene) | 1330-20-7 (95-47-6, 108-38-3, and 106-42-3, respectively, and 100-41-4) | 2,170 ppm | |

| D. Pesticides, Fungicides, Growth Regulators | | | |
|---|-------------------|--|----------------------------------|
| Analyte | CAS Number | Maximum Allowable Concentration | Required Action |
| *Abamectin | 71751-41-2 | 0.5 ppm | Remediate and retest, or Destroy |
| Acephate | 30560-19-1 | 0.4 ppm | |
| Acequinocyl | 57960-19-7 | 2.0 ppm | |
| Acetamiprid | 135410-20-7 | 0.2 ppm | |
| Aldicarb | 116-06-3 | 0.4 ppm | |
| Azoxystrobin | 131860-33-8 | 0.2 ppm | |
| *Bifenazate | 149877-41-8 | 0.2 ppm | |
| Bifenthrin | 82657-04-3 | 0.2 ppm | |
| Boscalid | 188425-85-6 | 0.4 ppm | |
| Carbaryl | 63-25-2 | 0.2 ppm | |
| Carbofuran | 1563-66-2 | 0.2 ppm | |
| *Chlorantraniliprole | 500008-45-7 | 0.2 ppm | |
| *Chlorfenapyr | 122453-73-0 | 1.0 ppm | |
| Chlorpyrifos | 2921-88-2 | 0.2 ppm | |
| *Clofentezine | 74115-24-5 | 0.2 ppm | |
| *Cyfluthrin | 68359-37-5 | 1.0 ppm | |
| *Cypermethrin | 52315-07-8 | 1.0 ppm | |
| *Daminozide | 1596-84-5 | 1.0 ppm | |
| *DDVP (Dichlorvos) | 62-73-7 | 0.1 ppm | |
| Diazinon | 333-41-5 | 0.2 ppm | |
| Dimethoate | 60-51-5 | 0.2 ppm | |
| Ethoprophos | 13194-48-4 | 0.2 ppm | |
| Etofenprox | 80844-07-1 | 0.4 ppm | |
| Etoxazole | 153233-91-1 | 0.2 ppm | |



| | | |
|---|--|---------|
| Fenoxycarb | 72490-01-8 | 0.2 ppm |
| Fenpyroximate | 134098-61-6 | 0.4 ppm |
| *Fipronil | 120068-37-3 | 0.4 ppm |
| Flonicamid | 158062-67-0 | 1.0 ppm |
| Fludioxonil | 131341-86-1 | 0.4 ppm |
| Hexythiazox | 78587-05-0 | 1.0 ppm |
| Imazalil | 35554-44-0 | 0.2 ppm |
| Imidacloprid | 138261-41-3 | 0.4 ppm |
| Kresoxim-methyl | 143390-89-0 | 0.4 ppm |
| Malathion | 121-75-5 | 0.2 ppm |
| Metalaxyl | 57837-19-1 | 0.2 ppm |
| Methiocarb | 2032-65-7 | 0.2 ppm |
| Methomyl | 16752-77-5 | 0.4 ppm |
| Myclobutanil | 88671-89-0 | 0.2 ppm |
| Naled | 300-76-5 | 0.5 ppm |
| Oxamyl | 23135-22-0 | 1.0 ppm |
| *Pacllobutrazol | 76738-62-0 | 0.4 ppm |
| *Permethrins (measured as the cumulative residue of cis- and trans- isomers) | 52645-53-1 (54774-45-7 and 51877-74-8) | 0.2 ppm |
| *Phosmet | 732-11-6 | 0.2 ppm |
| Piperonyl_butoxide | 51-03-6 | 2.0 ppm |
| *Prallethrin | 23031-36-9 | 0.2 ppm |
| Propiconazole | 60207-90-1 | 0.4 ppm |
| Propoxur | 114-26-1 | 0.2 ppm |
| *Pyrethrins (measured as the cumulative residue of pyrethrin 1, cinerin 1 and jasmolin 1) | 8003-34-7 (121-21-1, 25402-06-6, and 4466-14-2) | 1.0 ppm |
| *Pyridaben | 96489-71-3 | 0.2 ppm |
| *Spinosad | 168316-95-8 | 0.2 ppm |
| Spiromesifen | 283594-90-1 | 0.2 ppm |
| Spirotetramat | 203313-25-1 | 0.2 ppm |
| Spiroxamine | 118134-30-8 | 0.4 ppm |
| Tebuconazole | 107534-96-3 | 0.4 ppm |
| Thiacloprid | 111988-49-9 | 0.2 ppm |
| Thiamethoxam | 153719-23-4 | 0.2 ppm |
| Trifloxystrobin | 141517-21-7 | 0.2 ppm |

| E. Potency | | |
|---------------------------------------|---|----------------------------------|
| Analyte | Labelling | Required Action |
| Tetrahydrocannabinolic acid (THC-A) | Label claim is not within +/- 20% of tested value | Revise label as necessary |
| Delta-9-tetrahydrocannabinol (Δ9-THC) | | |
| Cannabidiolic acid (CBD-A) | | |
| Cannabidiol (CBD) | | |
| F. Herbicides | | |
| Analyte | Maximum Allowable Contaminant | Required Action |
| Pendimethalin | 0.1 ppm | Remediate and retest, or Destroy |



ARTICLE 4. LABORATORIES AND LABORATORY AGENTS

R9-17-404.03. Method Criteria and References for Chemical Analyses

- A. In addition to the definitions in A.R.S. § 36-2801 and R9-17-101, the following definitions apply in this Section unless otherwise stated:
1. “Limit of quantitation” means the lowest concentration of an analyte that may be detected and the concentration of the analyte reliably and accurately determined.
 2. “Matrix” means the specific components of a sample, other than the analyte being tested for.
 3. “Mid-level standard” means a standard that is between the highest concentration and lowest concentration of standards containing the same substances that are used as a reference when testing for the concentration of an analyte.
 4. “Response factor” means the ratio between a signal produced by an analyte relative to a signal produced by an internal standard at a specific concentration.
 5. “Retention time” means the length of time taken by an analyte to pass through a chromatography column.
 6. “Standard” means a sample of known concentration and containing specific substances that is used as a reference when testing for the concentration of an analyte.
- B. To perform laboratory testing using chemical analytical methods for any of the analytes in Table 3.1, a laboratory may use:
1. An established national or international chemical method; or
 2. A laboratory-developed method that was validated according to:
 - a. AOAC - Appendix K: Guidelines for Dietary Supplements and Botanicals, 2013, which is incorporated by reference, includes no future editions or amendments, and is available at http://www.eoma.aoac.org/app_k.pdf;
 - b. USDA - Guidelines for the Validation of Chemical Methods for the FDA FVM Program, 2nd Edition, April 2015, which is incorporated by reference, includes no future editions or amendments, and is available at <https://www.fda.gov/media/81810/download>; or
 - c. ICH – Validation of Analytical Procedures: Text and Methodology Q2(R1) 2005, which is incorporated by reference, includes no future editions or amendments, and is available at https://database.ich.org/sites/default/files/Q2_R1_Guideline.pdf or <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/q2-r1-validation-analytical-procedures-text-and-methodology>.
- C. A technical laboratory director shall ensure that all instruments and equipment used for testing medical marijuana or a marijuana product by chemical analytical methods are:
1. Set up, tuned, and calibrated according to:
 - a. Manufacturer’s acceptance criteria, or
 - b. Criteria validated according to subsection (B), as applicable;
 2. Monitored and maintained according to AOAC - Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, and Pharmaceuticals, Appendix A: Equipment, August 2018, which is incorporated by reference, includes no future editions or amendments, and is available at <https://www.aoac.org/aoac-accreditation-guidelines-for-laboratories-alacc>; and
 3. Applicable for the analytes to be tested.
- D. A technical laboratory director shall ensure that for an initial demonstration of capability:
1. Before implementing a method, at least four replicate reference samples for each analyte are:
 - a. Spiked into a clean matrix with, as applicable, an amount at or near the maximum allowable concentration for the analyte in Table 3.1 or the mid-level standard for potency testing; and
 - b. Taken through the entire sample preparation and analysis process;
 2. Whenever a significant change to instrumentation or to a standard operating procedure occurs, the laboratory demonstrates, as specified in subsection (D)(1), that acceptable precision and bias can still be obtained by the changed conditions; and
 3. Whenever a new laboratory agent who will be performing testing on medical marijuana or marijuana products is being trained, the laboratory agent demonstrates, as specified in subsection (D)(1), acceptable precision and bias.
- E. For potency testing or testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents, a technical laboratory director shall ensure that:
1. For establishing the retention time for an analyte, the retention time is determined by three injections, over the course of a 72-hour period, of a standard at or near, as applicable:
 - a. The maximum allowable concentration in Table 3.1 for the analyte; or
 - b. The mid-level standard for potency testing; and
 2. The width of the retention time window for each analyte is defined as ± 3 times the standard deviation of the mean absolute retention time that was established during the 72-hour period or 0.1 minutes, whichever is greater.
- F. A technical laboratory director shall ensure that:
1. The laboratory complies with the following requirements related to calibration and standards:
 - a. Except as specified in subsection (F)(1)(c), a minimum of:
 - i. Five standards are used for an average response factor or for a linear model,
 - ii. Six standards are used for a quadratic model, and
 - iii. Seven standards are used for a cubic model;
 - b. An X-value of zero is not included as a calibration point;
 - c. A calibration curve for heavy metal testing includes a minimum of three standards and a calibration blank;
 - d. One standard is at or near the limit of quantitation;
 - e. Except as specified in subsection (F)(1)(f) and as applicable, one standard for each analyte is at or near the:
 - i. Maximum allowable concentration in Table 3.1 for the analyte, or
 - ii. Mid-level standard for potency testing; and
 - f. For testing for residual solvents, either:



- i. One standard for each analyte is at or near the maximum allowable concentration in Table 3.1 for the analyte; or
 - ii. A standard is created containing a concentration of specific analytes that is a dilution factor from the maximum allowable concentration in Table 3.1 for the analyte and is used when performing multiple runs on a sample, with or without dilution, to cover the range of maximum allowable concentrations in Table 3.1;
 - g. One standard is above the maximum allowable concentration in Table 3.1 for an analyte;
 2. The acceptance criteria for testing is one of the following, as applicable:
 - a. The maximum relative standard deviation for the average calibration factor, for an external calibration model, or the response factor, for an internal calibration model, is no more than 20%; and
 - b. For linear and non-linear calibration models, the coefficient of determination (r^2) is greater than or equal to 0.99;
 3. For chromatographic testing methods using internal standards for calibration:
 - a. The relative retention time of each analyte to the internal calibration standard is within 0.06 units;
 - b. The areas of the peaks for the internal standards in any sample are between 50 and 200% of the area of the peak of the internal standard in subsection (F)(1)(e) used for calibration; and
 - c. The internal standards:
 - i. Have retention times similar to the analytes being tested for,
 - ii. Do not interfere with any of the analytes, and
 - iii. Have similar chemical properties as the analytes being tested for; and
 4. For methods testing for heavy metals, the internal standards:
 - a. Are appropriate for the analyte, and
 - b. Do not interfere with any of the analytes.
 - G. To obtain an acceptable calibration, a technical laboratory director:
 1. May use any of the following options:
 - a. Perform instrument maintenance to optimize analyte responses, as long as all resulting calibration models meet the acceptance criteria appropriate for the analyte;
 - b. If the problem appears to be associated with a single standard:
 - i. Reanalyze that one standard, at the time of calibration and before any samples are analyzed, to rule out problems due to random error; and
 - ii. Recalculate and reevaluate the standard against the acceptance criteria;
 - c. Narrow the calibration range by replacing one or more of the calibration standards at the upper or lower ends of the curve;
 - d. Narrow the calibration range by removing data points from either extreme end of the range and recalculating the calibration function; or
 - e. Perform a new initial calibration according to subsection (F); and
 2. May not:
 - a. Remove data points from within a calibration range while still retaining the extreme ends of the calibration range, or
 - b. Use non-linear calibrations to compensate for detector saturation or to avoid proper instrument maintenance.
 - H. A technical laboratory director shall ensure that for initial calibration verification:
 1. Standards are prepared either from a different source or from a different lot of standards from the same source than the source from which the initial calibration standards specified in subsection (F)(1) were obtained and must be at or near, as applicable:
 - a. The maximum allowable concentrations for an analyte in Table 3.1,
 - b. According to subsection (F)(1)(f)(ii), or
 - c. The mid-level standard for potency testing; and
 2. The following acceptance criteria are used:
 - a. For potency testing, 80 to 120% recovery of true value;
 - b. For testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents, 70 to 130% recovery of the true value; and
 - c. For heavy metal testing, 90 to 110% recovery of the true value.
 - I. A technical laboratory director shall ensure that for the limit of quantitation:
 1. The limit of quantitation is initially verified by the analysis of at least seven replicate samples, spiked at the limit of quantitation, and processed through all preparation and analysis steps of the method;
 2. The signal to noise ratio of the replicate samples in subsection (I)(1) is at least 5:1;
 3. The mean recovery of the replicate samples in subsection (I)(1) is:
 - a. For potency testing, $\pm 20\%$ of the true value;
 - b. For testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents, $\pm 50\%$ of the true value; and
 - c. For heavy metal testing, $\pm 35\%$ of the true value;
 4. The relative standard deviation of the replicate samples in subsection (I)(1) is less than 20%;
 5. The limit of quantitation is, as applicable, no greater than:
 - a. Half the maximum allowable concentrations for an analyte in Table 3.1;
 - b. For chlorfenapyr, cyfluthrin, or cypermethrin, the maximum allowable concentrations for the analyte in Table 3.1; or
 - c. 1.0 mg/g for each analyte for potency testing;
 6. Any changes to specific sample amounts, dilutions, or volumes employed are reflected in the limit of quantitation stated on a sample report; and
 7. Documentation of the current limit of quantitation is maintained for each analyte for each instrument.
 - J. Except as provided in subsection (P), a technical laboratory director shall ensure that for batch analysis:
 1. Continuing calibration verification standards:
 - a. Are prepared from the same calibration standard source used to prepare the standards specified in subsection (F)(1):



1. Except as provided in subsection (P), for potency testing or testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents by mass spectrometry, the relative intensities of the characteristic ions agrees within 30% of the relative intensities of these ions in the reference spectrum; and
 2. For heavy metal testing, the intensity of each internal standard is monitored for each analysis to ensure that the intensity does not vary more than $\pm 30\%$, with respect to the intensity of the internal standard during the initial calibration specified in subsection (F).
- M.** A technical laboratory director shall ensure that the resolution of chromatographic peaks in potency testing or testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents by a method other than mass spectrometry is maintained so that the height of the valley between the two chromatographic peaks is less than 50% of the average of the two peak heights.
- N.** A technical laboratory director shall ensure that confirmation for testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents by a method other than mass spectrometry:
1. Is performed using:
 - a. A second column:
 - i. That has a stationary phase dissimilar to the stationary phase in the primary column, and
 - ii. From which the analyte is eluted in a different order than from the primary column;
 - b. A different instrument type, such as gas chromatography followed by mass spectrometry;
 - c. Gas chromatography with two different types of detectors; or
 - d. Other recognized confirmation techniques;
 2. Meets the applicable criteria in subsections (D) through (M); and
 3. Includes as part of the confirmation of the analyte:
 - a. An evaluation of the agreement of the quantitative values of the results from both methods of testing; and
 - b. Determination of the relative percent difference between the values.
- O.** If the relative percent difference between the values obtained according to subsection (N) is more than 40%, a technical laboratory director shall ensure that:
1. The chromatograms are checked to see if an obviously overlapping peak is causing an erroneously high result, and the chromatographic conditions are reviewed; and
 2. Either:
 - a. If a problem is found with one of the tests, the result from the other test is reported; and
 - b. If there is no evidence of a chromatographic problem, the higher result is reported.
- P.** A technical laboratory director may release testing results that are scientifically valid and defensible, according to R9-17-404.06(B)(3), with the following data qualifier notations if:
1. The target analyte detected in the calibration blank required in subsection (F)(1)(c) or the method blank specified in subsection (K)(1) is at or above the limit of quantitation, but the sample result:
 - a. For potency testing, is below the limit of quantitation – B1; or
 - b. When testing for pesticides, fungicides, herbicides, growth regulators, heavy metals, or residual solvents, is below the maximum allowable concentration in Table 3.1 for the analyte – B2;
 2. The limit of quantitation and the sample results were adjusted to reflect sample dilution - D1;
 3. The relative intensity of a characteristic ion in a sample analyte exceeded the acceptance criteria in subsection (L)(1) with respect to the reference spectra, indicating interference – I1;
 4. When testing for pesticides, fungicides, herbicides, growth regulators, heavy metals, or residual solvents, the percent recovery of a laboratory control sample is greater than the acceptance limits in subsection (K)(2)(c), but the sample's target analytes were not detected above the maximum allowable concentrations in Table 3.1 for the analytes in the sample – L1;
 5. The recovery from the matrix spike in subsection (K)(4) was:
 - a. High, but the recovery from the laboratory control sample in subsection (K)(2) was within acceptance criteria – M1,
 - b. Low, but the recovery from the laboratory control sample in subsection (K)(2) was within acceptance criteria – M2, or
 - c. Unusable because the analyte concentration was disproportionate to the spike level, but the recovery from the laboratory control sample in subsection (K)(2) was within acceptance criteria – M3;
 6. The analysis of a spiked sample required a dilution such that the spike recovery calculation does not provide useful information, but the recovery from the associated laboratory control sample in subsection (K)(2) was within acceptance criteria – M4;
 7. The analyte concentration was determined by the method of standard addition, in which the standard is added directly to the aliquots of the analyzed sample – M5;
 8. A description of the variance is described in the final report of testing according to R9-17-404.06(B)(3)(d)(ii) – N1;
 9. The relative percent difference for the laboratory control sample and duplicate exceeded the limit in subsection (K)(3), but the recovery in subsection (K)(2) was within acceptance criteria – R1;
 10. The relative percent difference for a sample and duplicate exceeded the limit in subsection (O) – R2; or
 11. The recovery from continuing calibration verification standards exceeded the acceptance limits in subsection (J)(1)(b), but the sample's target analytes were not detected above the maximum allowable concentrations in Table 3.1 for the analytes in the sample – V1.
- Q.** A technical laboratory director shall include in the final report of testing, according to R9-17-404.06(B)(3)(d)(iii), the following data qualifier notations if:
1. Sample integrity was not maintained – Q1;
 2. The sample is heterogeneous, and sample homogeneity could not be readily achieved using routine laboratory practices – Q2; or
 3. Testing result is for informational purposes only and cannot be used to satisfy dispensary testing requirements in R9-17-317.01(A) or labeling requirements in R9-17-317 – Q3.



- R. For batch analysis of samples to determine potency, a technical laboratory director may check precision by using either a duplicate laboratory control sample or a duplicate sample prepared from the medical marijuana or marijuana product being tested, according to requirements in subsections (K)(2) and (3).
- S. A technical laboratory director shall ensure that the reporting units for:
 - 1. Pesticides, fungicides, herbicides, growth regulators, heavy metals, or residual solvents ~~is~~ are in parts per million (ppm); and
 - 2. Potency ~~is~~ are:
 - a. ~~in~~ In either:
 - i. ~~percent~~ Percent (w/w) relative to the bulk plant material or marijuana product, as applicable; or
 - ii. Number of milligrams per designated unit; and;
 - b. ~~for~~ For:
 - i. Total tetrahydrocannabinol, the sum of tetrahydrocannabinolic acid (THC-A), multiplied by 0.877, and delta-9-tetrahydrocannabinol (Δ 9-THC); and
 - ii. Total cannabidiol, the sum of cannabidiolic acid (CBD-A), multiplied by 0.877, and cannabidiol (CBD).



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
ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ADMINISTRATION**

[R20-192]

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, Standards for Payments
Section numbers: R9-22-703 (As part of this rulemaking, the Administration may add, delete, or modify Sections as necessary.)

2. **The subject matter of the proposed rule:**
 Proposed modifications to A.A.C. R9-22-703 include updating when an electronic claim is deemed received by the Administration to clarify what elements are needed in order for the Administration to process a claim. This will clarify when a claim has risen to the level of being recognized by the Administration and therefore falling under the jurisdiction of any grievances, appeals, or additional regulations governing claims processed by the Administration. As the result of this rulemaking, the Administration is able to focus on those claims in the proper format for processing, and reduce the time spent on incomplete claims unable to be processed by the information processing system.

3. **A citation to all published notices relating to the proceeding:**
 Notice of Proposed Rulemaking: 26 A.A.R. 2935, November 20, 2020 (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 2020-02 is being reproduced in each issue of the Administrative Register as a notice to the public regarding state agencies' rulemaking activities.

This order has been reproduced in its entirety as submitted.

EXECUTIVE ORDER 2020-02

Moratorium on Rulemaking to Promote Job Creation and Economic Development; Implementation of Licensing Reform Policies

[M20-01]

WHEREAS, government regulations should be as limited as possible; and

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

WHEREAS, protecting the public health, peace and safety of the residents of Arizona is a top priority of state government; 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, 2017, 2018 and 2019; and

WHEREAS, the State of Arizona eliminated or improved 637 burdensome regulations in 2019 and a total of 2,289 needless regulations have been eliminated or improved since 2015; and

WHEREAS, estimates show these eliminations saved job creators \$53.9 million in operating costs in 2019 and a total of over \$134.3 million in savings since 2015; and

WHEREAS, in 2019, for every one new necessary rule added to the Administrative Code, five have been repealed or improved; and

WHEREAS, approximately 354,000 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 to conduct 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 while protecting the health and safety of residents; and

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

- 1. 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 justifications 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 which are antiquated, redundant or otherwise no longer necessary for the operation of state government.
2. A State agency that submits a rulemaking request pursuant to this Order shall recommend for consideration by the Office of the Governor at least three existing rules to eliminate for every one additional rule requested by the agency.



3. A State agency that submits a rulemaking exemption request pursuant to this Order shall include with their request an analysis of how small businesses may be impacted by any newly proposed rules or rule modifications.
4. 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 the Arizona Revised Statutes or Arizona Administrative Code. Any material that is not specifically authorized must be removed immediately.
5. A State agency that issues occupational or professional licenses shall prominently post on the agency's website landing page all current state policies that ease licensing burdens and the exact steps applicants must complete to receive their license using these policies. State agencies should provide information that applies to all applicants, but have a designated area on such landing page that includes licensing information specifically for military spouses, active duty service members and veterans and all policies that make it easier for these applicant groups to receive their license. Examples of reduced licensing burdens include universal recognition of out-of-state licenses, availability of temporary licenses, fee waivers, exam exemptions and/or allowing an applicant to substitute military education or experience for licensing requirements. A landing page feature may link to an internal agency web page with more information, if necessary. All information must be easy to locate and written in clear and concise language.
6. All state agencies that are required to issue occupational or professional licenses by universal recognition (established by section 32-4302, Arizona Revised Statutes) must track all applications received for this license type. Before any agency denies a professional or occupational license applied for under section 32-4302, Arizona Revised Statutes, the agency shall submit the application and justification for denial to the Office of the Governor for review before any official action is taken by the agency. The Office of the Governor should be notified of any required timeframes, whether in statute or rule, for approval or denial of the license by the agency.
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 section 41-1001, Arizona Revised Statutes.

IN WITNESS THEREOF, 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 13th day of January in the Year Two Thousand and Twenty and of the Independence of the United States of America the Year Two Hundred and Forty-Fourth.

ATTEST:

Katie Hobbs
SECRETARY OF STATE

REGISTER INDEXES

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

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**

XN = Exempt new Section
XM = Exempt amended Section
XR = Exempt repealed Section
X# = Exempt renumbered Section

EXEMPT PROPOSED

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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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| R4-10-301. | PM-1655 | R6-14-311. | FN-263 | R7-2-1150. | FXM-597 |
| R4-10-302. | PM-1655 | R6-14-311. | FN-263 | R7-2-1155. | FXM-597 |
| R4-10-303. | PM-1655 | R6-14-311. | FN-263 | R7-2-1156. | FXM-597 |
| R4-10-304. | PM-1655 | R6-14-311. | FN-263 | R7-2-1157. | FXM-597 |
| R4-10-304.1. | PM-1655 | R6-14-311. | FN-263 | R7-2-1158. | FXM-597 |
| R4-10-305. | PM-1655 | R6-14-311. | FN-263 | R7-2-1181. | FXM-597 |
| R4-10-306. | PM-1655 | R6-14-311. | FN-263 | R7-2-1309. | FXN-66 |
| R4-10-401. | PM-1655 | R6-14-311. | FN-263 | R7-2-1501. | FXN-2900 |
| R4-10-402. | PM-1655 | R6-14-311. | FN-263 | R7-2-1502. | FXN-2900 |
| R4-10-403. | PM-1655 | R6-14-311. | FN-263 | R7-2-1503. | FXN-2900 |
| | | Economic Security, Department of - State Assistance Programs | | R7-2-1504. | FXN-2900 |
| | | | | R7-2-1505. | FXN-2900 |
| | | | | R7-2-1506. | FXN-2900 |

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| R7-2-1507. | FXN-2900 | R13-11-102. | FXM-2091 | R12-4-430. | PM-1791 |
| R7-2-1508. | FXN-2900 | R13-11-104. | FXM-2091 | Health Services, Department of - Administration | |
| R7-2-1509. | FXN-2900 | R13-11-105. | FXM-2091 | | |
| R7-2-1510. | FXN-2900 | R13-11-106. | FXM-2091 | R9-1-101. | PEM-501; |
| R7-2-1511. | FXN-2900 | R13-11-107. | FXR-2091 | | FEM-1224 |
| Environmental Quality, Department of - Air Pollution Control | | R13-11-108. | FXR-2091 | R9-1-102. | PEM-501; |
| | | R13-11-109. | FXM-2091 | | FEM-1224 |
| R18-2-327. | PM-653 | R13-11-110. | FXM-2091 | R9-1-103. | PEM-501; |
| Environmental Quality, Department of - Hazardous Waste Management | | R13-11-113. | FXM-2091 | | FEM-1224 |
| | | R13-11-114. | FXN-2091 | R9-1-201. | PEM-501; |
| | | Game and Fish Commission | | | FEM-1224 |
| R18-8-260. | PM-1451 | | R12-4-101. | PM-1729 | R9-1-202. |
| R18-8-261. | PM-1451 | R12-4-104. | PM-1729 | | FEM-1224 |
| R18-8-262. | PM-1451 | R12-4-105. | PM-1729 | R9-1-203. | PEM-501; |
| R18-8-263. | PM-1451 | R12-4-106. | PM-1729 | | FEM-1224 |
| R18-8-264. | PM-1451 | R12-4-107. | PM-1729 | R9-1-301. | PEM-501; |
| R18-8-265. | PM-1451 | R12-4-108. | PM-1729 | | FEM-1224 |
| R18-8-266. | PM-1451 | R12-4-110. | PM-1729 | R9-1-302. | PEM-501; |
| R18-8-268. | PM-1451 | R12-4-113. | PM-1729 | | FEM-1224 |
| R18-8-270. | PM-1451 | R12-4-114. | PM-1729 | R9-1-303. | PEM-501; |
| R18-8-271. | PM-1451 | R12-4-115. | PM-1729 | | FEM-1224 |
| R18-8-273. | PM-1451 | R12-4-116. | P#-1729; | Health Services, Department of - Arizona Medically Underserved Area Health Services | |
| R18-8-280. | PM-1451 | | PN-1729 | | |
| Environmental Quality, Department of - Solid Waste Management | | R12-4-118. | PM-1729 | R9-24-201. | PEM-1274; |
| | | R12-4-120. | PM-1729 | | FEM-1991 |
| R18-13-201. | PEM-2759 | R12-4-121. | PM-1729 | R9-24-202. | PEM-1274; |
| R18-13-703. | PEM-2759 | R12-4-122. | PM-1729 | | FEM-1991 |
| R18-13-1301. | PEM-2759 | R12-4-124. | PM-1729 | R9-24-203. | PEM-1274; |
| R18-13-1302. | PEM-2759 | R12-4-125. | PM-1729 | | FEM-1991 |
| R18-13-1303. | PEM-2759 | R12-4-126. | P#-1729; | Table 1. | PEM-1274; |
| R18-13-1304. | PEM-2759 | | PM-1729 | | FEM-1991 |
| R18-13-1601. | PEM-2759 | R12-4-127. | PN-1729 | R9-24-204. | PEM-1274; |
| R18-13-1602. | PEM-2759 | R12-4-201. | PM-1117 | | FEM-1991 |
| R18-13-1603. | PEM-2759 | R12-4-205. | PM-1117 | R9-24-205. | PER-1274; |
| R18-13-1603. | PEM-2759 | R12-4-206. | PM-1117 | | FER-1991 |
| R18-13-1604. | PEM-2759 | R12-4-207. | PM-1117 | R9-24-205. | PER-1274; |
| R18-13-1607. | PEM-2759 | R12-4-208. | PM-1117 | | FER-1991 |
| R18-13-1608. | PEM-2759 | R12-4-210. | PM-1117 | R9-24-301. | PEM-1274; |
| R18-13-1610. | PEM-2759 | R12-4-211. | PM-1117 | | FEM-1991 |
| R18-13-1613. | PEM-2759 | R12-4-212. | PR-1117 | R9-24-302. | PEM-1274; |
| Equalization, State Board of | | R12-4-215. | PM-1117 | | FEM-1991 |
| | | R12-4-216. | PM-1117 | Health Services, Department of - Child Care Facilities | |
| R16-4-101. | PN-1679 | R12-4-217. | PM-1117 | | R9-5-101. |
| R16-4-102. | PN-1679 | R12-4-313. | PM-1729 | | FM-1265 |
| R16-4-103. | PN-1679 | R12-4-318. | PM-1729 | R9-5-502. | PM-401; |
| R16-4-104. | PN-1679 | R12-4-401. | PM-1791 | | FM-1265 |
| R16-4-105. | PN-1679 | R12-4-403. | PM-1791 | R9-5-516. | PM-401; |
| R16-4-106. | PN-1679 | R12-4-405. | PM-1791 | | FM-1265 |
| R16-4-107. | PN-1679 | R12-4-406. | PM-1791 | Health Services, Department of - Child Care Group Homes | |
| R16-4-108. | PN-1679 | R12-4-407. | PM-1791 | | |
| R16-4-109. | PN-1679 | R12-4-409. | PM-1791 | R9-3-101. | PEM-1201; |
| R16-4-110. | PN-1679 | R12-4-410. | PM-1791 | | FEM-1969 |
| R16-4-111. | PN-1679 | R12-4-411. | PM-1791 | R9-3-102. | PEM-1201; |
| R16-4-112. | PN-1679 | R12-4-413. | PM-1791 | | FEM-1969 |
| R16-4-113. | PN-1679 | R12-4-414. | PM-1791 | Table 1.1. | PEM-1201; |
| R16-4-114. | PN-1679 | R12-4-417. | PM-1791 | | FEM-1969 |
| R16-4-115. | PN-1679 | R12-4-418. | PM-1791 | R9-3-201. | PEM-1201; |
| R16-4-116. | PN-1679 | R12-4-420. | PM-1791 | | FEM-1969 |
| R16-4-117. | PN-1679 | R12-4-421. | PM-1791 | R9-3-202. | PEM-1201; |
| Financial Institutions, Department of | | R12-4-422. | PM-1791 | | FEM-1969 |
| | | R12-4-423. | PM-1791 | R9-3-203. | PEM-1201; |
| R20-4-1102. | EXP-382 | R12-4-424. | PM-1791 | | FEM-1969 |
| Fingerprinting, Board of | | R12-4-425. | PM-1791 | | |
| | | R12-4-427. | PM-1791 | | |
| | | R12-4-428. | PM-1791 | | |



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| R9-7-102. | PEM-431; FEM-1067 | R20-5-507. | FM-311 | R4-34-805. | PM-529; FM-1509 |
| R9-7-302. | PEM-431; FEM-1067 | R20-5-601. | FM-373 | Nursing, Board of | |
| R9-7-305. | PEM-431; FEM-1067 | R20-5-601.01. | EXP-290 | | |
| R9-7-313. | PEM-431; FEM-1067 | R20-5-602. | FM-373 | R4-19-101. | PM-1399 |
| R9-7-318. | PEM-431; FEM-1067 | R20-5-629. | FM-373 | R4-19-102. | PM-1399 |
| R9-7-448. | PEM-431; FEM-1067 | Appendix A. | XR-2119; | R4-19-207. | PM-1399 |
| R9-7-1302. | PM-1157 | R20-5-1001. | PM-2741 | R4-19-208. | PM-1399 |
| R9-7-1303. | PM-1157 | R20-5-1002. | PM-2741 | R4-19-209. | PM-1399 |
| R9-7-1304. | PM-1157 | R20-5-1003. | PM-2741 | R4-19-210. | PM-1399 |
| R9-7-1306. | PM-1157 | R20-5-1004. | PM-2741 | R4-19-216. | PM-1399 |
| Table 13.1. | PN-1157 | R20-5-1006. | PM-2741 | R4-19-301. | PM-1399 |
| R9-7-1307. | PR-1157 | R20-5-1007. | PM-2741 | R4-19-304. | PM-1399 |
| Table 1. | PR-1157 | R20-5-1008. | PM-2741 | R4-19-305. | PM-1399 |
| Table 13.2. | PN-1157 | R20-5-1009. | PM-2741 | R4-19-308. | PM-1399 |
| R9-7-1507. | PEM-431; FEM-1067 | Land Department, State | | R4-19-501. | PM-1399 |
| R9-7-1510. | PEM-431; FEM-1067 | R12-5-101. | PM-1305 | R4-19-502. | PM-1399 |
| R9-7-1514. | PEM-431; FEM-1067 | R12-5-103. | PM-1305 | R4-19-503. | PM-1399 |
| R9-7-1907. | PEM-431; FEM-1067 | R12-5-104. | PM-1305 | R4-19-504. | PM-1399 |
| R9-7-1923. | PEM-431; FEM-1067 | R12-5-105. | PM-1305 | R4-19-505. | PM-1399 |
| R9-7-1927. | PEM-431; FEM-1067 | R12-5-106. | PM-1305 | R4-19-506. | PM-1399 |
| R9-7-1977. | PEM-431; FEM-1067 | R12-5-107. | PM-1305 | R4-19-507. | PM-1399 |
| | | R12-5-201. | PM-1305 | R4-19-508. | PM-1399 |
| | | R12-5-210. | PM-1305 | R4-19-511. | PM-1399 |
| | | R12-5-211. | PM-1305 | R4-19-512. | PM-1399 |
| | | R12-5-212. | PM-1305 | R4-19-513. | PM-1399 |
| | | R12-5-215. | PM-1305 | R4-19-514. | PM-1399 |
| | | R12-5-2105. | EXP-290 | R4-19-604. | PM-1399 |
| | | R12-5-2106. | EXP-290 | R4-19-804. | PM-1399 |
| | | | | R4-19-806. | PM-1399 |
| | | | | R4-19-809. | PM-1399 |
| | | | | R4-19-815. | PM-1399 |
| | | | | Nursing Care Institution Adminis- trators and Assisted Living Facility Managers, Board of Examiners of | |
| | | R4-34-101. | PM-529; FM-1509 | R4-33-105. | PR-2737 |
| | | R4-34-102. | PM-529; SPM-1847 | R4-33-501. | PM-2737 |
| | | R4-34-203. | PM-529; FM-1509 | R4-33-503. | PM-2737 |
| | | R4-34-204. | PM-529; FM-1509 | R4-33-504. | PR-2737 |
| | | R4-34-502. | PM-529 | R4-33-702. | PM-589; EM-1091; FM-1465 |
| | | R4-34-504. | PM-529; SPR-1847 | | |
| | | R4-34-603. | PM-529; FM-1509 | R4-33-703.1. | PM-589; EM-1091; FM-1465 |
| | | R4-34-606. | PM-529; FM-1509 | | |
| | | R4-34-607. | PM-529; FM-1509 | R4-33-707. | PN-2737 |
| | | R4-34-701. | PM-529; FM-1509 | Peace Officer Standards and Train- ing Board, Arizona | |
| | | R4-34-702. | PM-529; FM-1509 | R13-4-101. | PM-1343; FM-2745 |
| | | R4-34-703. | PM-529; FM-1509 | R13-4-104. | PM-1343; FM-2745 |
| | | R4-34-704. | PM-529; FM-1509 | R13-4-105. | PM-1343; FM-2745 |
| | | R4-34-705. | PM-529; FM-1509 | R13-4-106. | PM-1343; FM-2745 |
| | | R4-34-706. | PM-529; FM-1509 | R13-4-108. | PM-1343; FM-2745 |
| | | R4-34-801. | PM-529; FM-1509 | R13-4-109. | PM-1343; FM-2745 |
| | | R4-34-802. | PM-529; FM-1509 | R13-4-110. | PM-1343; FM-2745 |
| | | | | R13-4-111. | PM-1343; FM-2745 |
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| R13-4-114. | PM-1343; FM-2745 | Public Safety, Department of - Tow Trucks | R2-8-128. | PN-2036 | |
| R13-4-116. | PM-1343; FM-2745 | | R2-8-129. | PN-2036 | |
| Pharmacy, Board of | | R13-3-902. | FM-963 | R2-8-130. | PN-2036 |
| R4-23-110. | FM-223 | Psychologist Examiners, Board of | | R2-8-131. | PN-2036 |
| R4-23-204. | FM-223 | R4-26-203. | PM-187; FM-1010 | R2-8-132. | PN-2036 |
| R4-23-205. | FM-223 | R4-26-203.01. | PM-187; FM-1010 | R2-8-133. | PN-2036 |
| R4-23-407. | FM-223; FM-544 | R4-26-205. | PM-187; FM-1010 | Revenue, Department of - Transaction Privilege and Use Tax Section | |
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| R4-23-411. | FM-223 | Table 1. | PM-187; FM-1010 | R15-5-2204. | PR-1579; FR-2894 |
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| R4-23-801. | FR-223 | R4-26-403. | PM-187; FM-1017 | R7-6-101. | PEM-1363 |
| R4-23-1103. | FM-223 | R4-26-404.1. | PM-187; FM-1017 | R7-6-201. | PEM-1363 |
| R4-23-1106. | FM-223 | R4-26-404.2. | PM-187; FM-1017 | R7-6-202. | PEN-1363 |
| Podiatry Examiners, Board of | | R4-26-406. | PM-187; FM-1017 | R7-6-205. | PEM-1363 |
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| R4-25-102. | PM-645; FM-1501 | R4-26-408. | PM-187; FM-1017 | R7-6-211. | PEM-1363 |
| R4-25-103. | PM-645; FM-1501 | R4-26-415. | PM-187 | R7-6-212. | PEM-1363 |
| R4-25-104. | PM-645; FM-1501 | Retirement System Board, State | | R7-6-213. | PEM-1363 |
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| R4-25-201. | PM-645; FM-1501 | R2-8-115. | PM-947 | R7-6-215. | PEM-1363 |
| R4-25-203. | PR-645; FR-1501 | R2-8-117. | PEM-2840 | R7-6-216. | PER-1363; PEN-1363 |
| R4-25-301. | PM-645; FM-1501 | R2-8-118. | PEM-2840 | R7-6-220. | PEM-1363 |
| R4-25-302. | PM-645; FM-1501 | R2-8-120. | PR-947 | R7-6-221. | PEM-1363 |
| R4-25-501. | PM-645; FM-1501 | R2-8-121. | PN-2837 | R7-6-225. | PEM-1363 |
| R4-25-502. | PM-645; FM-1501 | R2-8-122. | FM-371; PM-2837 | R7-6-226. | PEM-1363 |
| R4-25-603. | PM-645; FM-1501 | R2-8-126. | PM-947 | R7-6-227. | PEM-1363 |
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| Postsecondary Education, Commission for | | R2-8-128. | PN-947 | R7-6-235. | PEM-1363 |
| R7-3-201. | EXP-1322 | R2-8-129. | PN-947 | R7-6-240. | PER-1363 |
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| R7-3-205. | EXP-1322 | R2-8-133. | PN-947 | R7-6-248. | PER-1363 |
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| R13-10-103. | FM-723 | R2-8-204. | PEM-2840 | R7-6-251. | PEM-1363 |
| R13-10-104. | FM-723 | R2-8-205. | PEM-2840 | R7-6-255. | PEM-1363 |
| R13-10-107. | FM-723 | R2-8-206. | PEM-2840 | R7-6-256. | PEM-1363 |
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| Exhibit B. | FM-723 | R2-8-303. | PM-2031 | R7-6-260. | PER-1363 |
| Exhibit C. | FM-723 | R2-8-404. | PEM-2840 | R7-6-261. | PEM-1363 |
| Exhibit D. | FM-723 | R2-8-502. | PEM-2840 | R7-6-265. | PEM-1363 |
| Exhibit I-1. | FN-723 | R2-8-507. | PEM-2840 | R7-6-270. | PEM-1363 |
| Exhibit I-2. | FN-723 | R2-8-901. | PN-2033 | R7-6-271. | PEM-1363 |
| | | R2-8-902. | PN-2033 | R7-6-285. | PEM-1363 |
| | | R2-8-903. | PN-2033 | R7-6-701. | PEM-1363 |
| | | R2-8-904. | PN-2033 | R7-6-705. | PER-1363 |
| | | R2-8-115. | PM-2036 | R7-6-710. | PEM-1363 |
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| | | R2-8-127. | PN-2036 | R7-6-713. | PER-1363 |
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| | | | | R7-6-716. | PER-1363 |
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| | | | | R7-6-725. | PER-1363 |
| | | | | R7-6-726. | PER-1363 |
| | | | | R7-6-727. | PER-1363 |



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| R7-6-730. | PER-1363 | R2-12-1203. | F#-106 | R17-5-614. | FR-1047; |
| R7-6-735. | PER-1363 | R2-12-1204. | F#-106; FM-106 | | FN-1047 |
| R7-6-740. | PER-1363 | R2-12-1205. | F#-106; FM-106 | R17-5-616. | FM-1047 |
| R7-6-745. | PER-1363 | R2-12-1206. | F#-106; FM-106 | R17-5-621. | FM-1047 |
| R7-6-746. | PER-1363 | R2-12-1207. | F#-106; FM-106 | Transportation, Department of - Highways | |
| R7-6-747. | PER-1363 | R2-12-1208. | FR-106; F#-106 | R17-3-801. | EXP-382 |
| R7-6-748. | PER-1363 | R2-12-1209. | FR-106 | R17-3-802. | EXP-382 |
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| R7-6-751. | PER-1363 | R2-12-1303. | FN-537 | R17-3-805. | EXP-382 |
| R7-6-755. | PER-1363 | R2-12-1304. | FN-537 | R17-3-806. | EXP-382 |
| R7-6-756. | PER-1363 | R2-12-1305. | FN-537 | R17-4-807. | EXP-1589 |
| R7-6-757. | PER-1363 | R2-12-1306. | FN-537 | R17-3-808. | EXP-382 |
| R7-6-758. | PER-1363 | R2-12-1307. | FN-537 | Transportation, Department of - Title, Registration, and Driver Licenses | |
| R7-6-760. | PER-1363 | R2-12-1308. | FN-537 | R17-4-501. | PEM-1582 |
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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 | 3/1 | 2/1 | 4/1 | 3/1 | 4/30 | 4/1 | 5/31 | 5/1 | 6/30 | 6/1 | 7/31 |
| 1/2 | 3/2 | 2/2 | 4/2 | 3/2 | 5/1 | 4/2 | 6/1 | 5/2 | 7/1 | 6/2 | 8/1 |
| 1/3 | 3/3 | 2/3 | 4/3 | 3/3 | 5/2 | 4/3 | 6/2 | 5/3 | 7/2 | 6/3 | 8/2 |
| 1/4 | 3/4 | 2/4 | 4/4 | 3/4 | 5/3 | 4/4 | 6/3 | 5/4 | 7/3 | 6/4 | 8/3 |
| 1/5 | 3/5 | 2/5 | 4/5 | 3/5 | 5/4 | 4/5 | 6/4 | 5/5 | 7/4 | 6/5 | 8/4 |
| 1/6 | 3/6 | 2/6 | 4/6 | 3/6 | 5/5 | 4/6 | 6/5 | 5/6 | 7/5 | 6/6 | 8/5 |
| 1/7 | 3/7 | 2/7 | 4/7 | 3/7 | 5/6 | 4/7 | 6/6 | 5/7 | 7/6 | 6/7 | 8/6 |
| 1/8 | 3/8 | 2/8 | 4/8 | 3/8 | 5/7 | 4/8 | 6/7 | 5/8 | 7/7 | 6/8 | 8/7 |
| 1/9 | 3/9 | 2/9 | 4/9 | 3/9 | 5/8 | 4/9 | 6/8 | 5/9 | 7/8 | 6/9 | 8/8 |
| 1/10 | 3/10 | 2/10 | 4/10 | 3/10 | 5/9 | 4/10 | 6/9 | 5/10 | 7/9 | 6/10 | 8/9 |
| 1/11 | 3/11 | 2/11 | 4/11 | 3/11 | 5/10 | 4/11 | 6/10 | 5/11 | 7/10 | 6/11 | 8/10 |
| 1/12 | 3/12 | 2/12 | 4/12 | 3/12 | 5/11 | 4/12 | 6/11 | 5/12 | 7/11 | 6/12 | 8/11 |
| 1/13 | 3/13 | 2/13 | 4/13 | 3/13 | 5/12 | 4/13 | 6/12 | 5/13 | 7/12 | 6/13 | 8/12 |
| 1/14 | 3/14 | 2/14 | 4/14 | 3/14 | 5/13 | 4/14 | 6/13 | 5/14 | 7/13 | 6/14 | 8/13 |
| 1/15 | 3/15 | 2/15 | 4/15 | 3/15 | 5/14 | 4/15 | 6/14 | 5/15 | 7/14 | 6/15 | 8/14 |
| 1/16 | 3/16 | 2/16 | 4/16 | 3/16 | 5/15 | 4/16 | 6/15 | 5/16 | 7/15 | 6/16 | 8/15 |
| 1/17 | 3/17 | 2/17 | 4/17 | 3/17 | 5/16 | 4/17 | 6/16 | 5/17 | 7/16 | 6/17 | 8/16 |
| 1/18 | 3/18 | 2/18 | 4/18 | 3/18 | 5/17 | 4/18 | 6/17 | 5/18 | 7/17 | 6/18 | 8/17 |
| 1/19 | 3/19 | 2/19 | 4/19 | 3/19 | 5/18 | 4/19 | 6/18 | 5/19 | 7/18 | 6/19 | 8/18 |
| 1/20 | 3/20 | 2/20 | 4/20 | 3/20 | 5/19 | 4/20 | 6/19 | 5/20 | 7/19 | 6/20 | 8/19 |
| 1/21 | 3/21 | 2/21 | 4/21 | 3/21 | 5/20 | 4/21 | 6/20 | 5/21 | 7/20 | 6/21 | 8/20 |
| 1/22 | 3/22 | 2/22 | 4/22 | 3/22 | 5/21 | 4/22 | 6/21 | 5/22 | 7/21 | 6/22 | 8/21 |
| 1/23 | 3/23 | 2/23 | 4/23 | 3/23 | 5/22 | 4/23 | 6/22 | 5/23 | 7/22 | 6/23 | 8/22 |
| 1/24 | 3/24 | 2/24 | 4/24 | 3/24 | 5/23 | 4/24 | 6/23 | 5/24 | 7/23 | 6/24 | 8/23 |
| 1/25 | 3/25 | 2/25 | 4/25 | 3/25 | 5/24 | 4/25 | 6/24 | 5/25 | 7/24 | 6/25 | 8/24 |
| 1/26 | 3/26 | 2/26 | 4/26 | 3/26 | 5/25 | 4/26 | 6/25 | 5/26 | 7/25 | 6/26 | 8/25 |
| 1/27 | 3/27 | 2/27 | 4/27 | 3/27 | 5/26 | 4/27 | 6/26 | 5/27 | 7/26 | 6/27 | 8/26 |
| 1/28 | 3/28 | 2/28 | 4/28 | 3/28 | 5/27 | 4/28 | 6/27 | 5/28 | 7/27 | 6/28 | 8/27 |
| 1/29 | 3/29 | 2/29 | 4/29 | 3/29 | 5/28 | 4/29 | 6/28 | 5/29 | 7/28 | 6/29 | 8/28 |
| 1/30 | 3/30 | | | 3/30 | 5/29 | 4/30 | 6/29 | 5/30 | 7/29 | 6/30 | 8/29 |
| 1/31 | 3/31 | | | 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 | 1/30/21 |
| 7/2 | 8/31 | 8/2 | 10/1 | 9/2 | 11/1 | 10/2 | 12/1 | 11/2 | 1/1/21 | 12/2 | 1/31/21 |
| 7/3 | 9/1 | 8/3 | 10/2 | 9/3 | 11/2 | 10/3 | 12/2 | 11/3 | 1/2/21 | 12/3 | 2/1/21 |
| 7/4 | 9/2 | 8/4 | 10/3 | 9/4 | 11/3 | 10/4 | 12/3 | 11/4 | 1/3/21 | 12/4 | 2/2/21 |
| 7/5 | 9/3 | 8/5 | 10/4 | 9/5 | 11/4 | 10/5 | 12/4 | 11/5 | 1/4/21 | 12/5 | 2/3/21 |
| 7/6 | 9/4 | 8/6 | 10/5 | 9/6 | 11/5 | 10/6 | 12/5 | 11/6 | 1/5/21 | 12/6 | 2/4/21 |
| 7/7 | 9/5 | 8/7 | 10/6 | 9/7 | 11/6 | 10/7 | 12/6 | 11/7 | 1/6/21 | 12/7 | 2/5/21 |
| 7/8 | 9/6 | 8/8 | 10/7 | 9/8 | 11/7 | 10/8 | 12/7 | 11/8 | 1/7/21 | 12/8 | 2/6/21 |
| 7/9 | 9/7 | 8/9 | 10/8 | 9/9 | 11/8 | 10/9 | 12/8 | 11/9 | 1/8/21 | 12/9 | 2/7/21 |
| 7/10 | 9/8 | 8/10 | 10/9 | 9/10 | 11/9 | 10/10 | 12/9 | 11/10 | 1/9/21 | 12/10 | 2/8/21 |
| 7/11 | 9/9 | 8/11 | 10/10 | 9/11 | 11/10 | 10/11 | 12/10 | 11/11 | 1/10/21 | 12/11 | 2/9/21 |
| 7/12 | 9/10 | 8/12 | 10/11 | 9/12 | 11/11 | 10/12 | 12/11 | 11/12 | 1/11/21 | 12/12 | 2/10/21 |
| 7/13 | 9/11 | 8/13 | 10/12 | 9/13 | 11/12 | 10/13 | 12/12 | 11/13 | 1/12/21 | 12/13 | 2/11/21 |
| 7/14 | 9/12 | 8/14 | 10/13 | 9/14 | 11/13 | 10/14 | 12/13 | 11/14 | 1/13/21 | 12/14 | 2/12/21 |
| 7/15 | 9/13 | 8/15 | 10/14 | 9/15 | 11/14 | 10/15 | 12/14 | 11/15 | 1/14/21 | 12/15 | 2/13/21 |
| 7/16 | 9/14 | 8/16 | 10/15 | 9/16 | 11/15 | 10/16 | 12/15 | 11/16 | 1/15/21 | 12/16 | 2/14/21 |
| 7/17 | 9/15 | 8/17 | 10/16 | 9/17 | 11/16 | 10/17 | 12/16 | 11/17 | 1/16/21 | 12/17 | 2/15/21 |
| 7/18 | 9/16 | 8/18 | 10/17 | 9/18 | 11/17 | 10/18 | 12/17 | 11/18 | 1/17/21 | 12/18 | 2/16/21 |
| 7/19 | 9/17 | 8/19 | 10/18 | 9/19 | 11/18 | 10/19 | 12/18 | 11/19 | 1/18/21 | 12/19 | 2/17/21 |
| 7/20 | 9/18 | 8/20 | 10/19 | 9/20 | 11/19 | 10/20 | 12/19 | 11/20 | 1/19/21 | 12/20 | 2/18/21 |
| 7/21 | 9/19 | 8/21 | 10/20 | 9/21 | 11/20 | 10/21 | 12/20 | 11/21 | 1/20/21 | 12/21 | 2/19/21 |
| 7/22 | 9/20 | 8/22 | 10/21 | 9/22 | 11/21 | 10/22 | 12/21 | 11/22 | 1/21/21 | 12/22 | 2/20/21 |
| 7/23 | 9/21 | 8/23 | 10/22 | 9/23 | 11/22 | 10/23 | 12/22 | 11/23 | 1/22/21 | 12/23 | 2/21/21 |
| 7/24 | 9/22 | 8/24 | 10/23 | 9/24 | 11/23 | 10/24 | 12/23 | 11/24 | 1/23/21 | 12/24 | 2/22/21 |
| 7/25 | 9/23 | 8/25 | 10/24 | 9/25 | 11/24 | 10/25 | 12/24 | 11/25 | 1/24/21 | 12/25 | 2/23/21 |
| 7/26 | 9/24 | 8/26 | 10/25 | 9/26 | 11/25 | 10/26 | 12/25 | 11/26 | 1/25/21 | 12/26 | 2/24/21 |
| 7/27 | 9/25 | 8/27 | 10/26 | 9/27 | 11/26 | 10/27 | 12/26 | 11/27 | 1/26/21 | 12/27 | 2/25/21 |
| 7/28 | 9/26 | 8/28 | 10/27 | 9/28 | 11/27 | 10/28 | 12/27 | 11/28 | 1/27/21 | 12/28 | 2/26/21 |
| 7/29 | 9/27 | 8/29 | 10/28 | 9/29 | 11/28 | 10/29 | 12/28 | 11/29 | 1/28/21 | 12/29 | 2/27/21 |
| 7/30 | 9/28 | 8/30 | 10/29 | 9/30 | 11/29 | 10/30 | 12/29 | 11/30 | 1/29/21 | 12/30 | 2/28/21 |
| 7/31 | 9/29 | 8/31 | 10/30 | | | 10/31 | 12/30 | | | 12/31 | 3/1/21 |



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.

| Deadline Date (paper only) Friday, 5:00 p.m. | Register Publication Date | Oral Proceeding may be scheduled on or after |
|---|--------------------------------------|---|
| July 3, 2020 | July 24, 2020 | August 24, 2020 |
| July 10, 2020 | July 31, 2020 | August 31, 2020 |
| July 17, 2020 | August 7, 2020 | September 8, 2020 |
| July 24, 2020 | August 14, 2020 | September 14, 2020 |
| July 31, 2020 | August 21, 2020 | September 21, 2020 |
| August 7, 2020 | August 28, 2020 | September 28, 2020 |
| August 14, 2020 | September 4, 2020 | October 5, 2020 |
| August 21, 2020 | September 11, 2020 | October 13, 2020 |
| August 28, 2020 | September 18, 2020 | October 19, 2020 |
| September 4, 2020 | September 25, 2020 | October 26, 2020 |
| September 11, 2020 | October 2, 2020 | November 2, 2020 |
| September 18, 2020 | October 9, 2020 | November 9, 2020 |
| September 25, 2020 | October 16, 2020 | November 16, 2020 |
| October 2, 2020 | October 23, 2020 | November 23, 2020 |
| October 9, 2020 | October 30, 2020 | November 30, 2020 |
| October 16, 2020 | November 6, 2020 | December 7, 2020 |
| October 23, 2020 | November 13, 2020 | December 14, 2020 |
| October 30, 2020 | November 20, 2020 | December 21, 2020 |
| November 6, 2020 | November 27, 2020 | December 28, 2020 |
| November 13, 2020 | December 4, 2020 | January 4, 2021 |
| November 20, 2020 | December 11, 2020 | January 11, 2021 |
| November 27, 2020 | December 18, 2020 | January 19, 2021 |
| December 4, 2020 | December 25, 2020 | January 25, 2021 |
| December 11, 2020 | January 1, 2021 | February 1, 2021 |
| December 18, 2020 | January 8, 2021 | February 8, 2021 |
| December 24, 2020 | January 15, 2021 | February 16, 2021 |
| December 31, 2021 | January 22, 2021 | February 22, 2021 |
| January 8, 2021 | January 29, 2021 | March 1, 2021 |
| January 15, 2021 | February 5, 2021 | March 8, 2021 |
| January 22, 2021 | February 12, 2021 | March 15, 2021 |



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 under A.R.S. § 41-1013(B)(15).

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 305, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit <http://grcc.az.gov>.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2020/2021

(MEETING DATES ARE SUBJECT TO CHANGE)

[M19-118/M20-42]

| DEADLINE FOR PLACEMENT ON AGENDA* | FINAL MATERIALS SUBMITTED TO COUNCIL | DATE OF COUNCIL STUDY SESSION | DATE OF COUNCIL MEETING |
|-----------------------------------|--------------------------------------|-------------------------------|--------------------------------|
| Tuesday August 18, 2020 | Tuesday September 22, 2020 | Tuesday September 29, 2020 | Tuesday October 6, 2020 |
| Tuesday September 22, 2020 | Tuesday October 20, 2020 | Tuesday October 27, 2020 | Tuesday November 3, 2020 |
| Tuesday October 20, 2020 | Tuesday November 17, 2020 | Tuesday November 24, 2020 | Tuesday December 1, 2020 |
| Tuesday November 17, 2020 | Tuesday December 22, 2020 | Tuesday December 29, 2020 | Tuesday January 5, 2021 |
| Tuesday December 29, 2020 | Tuesday January 19, 2021 | Tuesday January 26, 2021 | Tuesday February 2, 2021 |
| Tuesday January 19, 2021 | Tuesday February 16, 2021 | Tuesday February 23, 2021 | Tuesday March 2, 2021 |
| Tuesday February 16, 2021 | Tuesday March 23, 2021 | Tuesday March 30, 2021 | Tuesday April 6, 2021 |
| Tuesday March 23, 2021 | Tuesday April 20, 2021 | Tuesday April 27, 2021 | Tuesday May 4, 2021 |
| Tuesday April 20, 2021 | Tuesday May 18, 2021 | Wednesday May 26, 2021 | Tuesday June 1, 2021 |
| Tuesday May 18, 2021 | Tuesday June 22, 2021 | Tuesday June 29, 2021 | Wednesday July 7, 2021 |
| Tuesday June 22, 2021 | Tuesday July 20, 2021 | Tuesday July 27, 2021 | Tuesday August 3, 2021 |
| Tuesday July 20, 2021 | Tuesday August 24, 2021 | Tuesday August 31, 2021 | Wednesday September 8, 2021 |
| Tuesday August 24, 2021 | Tuesday September 21, 2021 | Tuesday September 28, 2021 | Tuesday October 5, 2021 |
| Tuesday September 21, 2021 | Tuesday October 19, 2021 | Tuesday October 26, 2021 | Tuesday November 2, 2021 |
| Tuesday October 19, 2021 | Tuesday November 23, 2021 | Tuesday November 30, 2021 | Tuesday December 7, 2021 |
| Tuesday November 23, 2021 | Tuesday December 21, 2021 | Tuesday December 28, 2021 | Tuesday January 4, 2022 |
| Tuesday December 21, 2021 | Tuesday January 18, 2022 | Tuesday January 25, 2022 | Tuesday February 1, 2022 |

* 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.