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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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

January 24, 2025
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SECRETARY OF STATE
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This publication is available online for free at www.azsos.gov.

ADMINISTRATIVE CODE
The *Arizona Administrative Code* is available online at www.azsos.gov.

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

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Participate in the Process

Look for the Agency Notice

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

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

Attend a public hearing/meeting

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

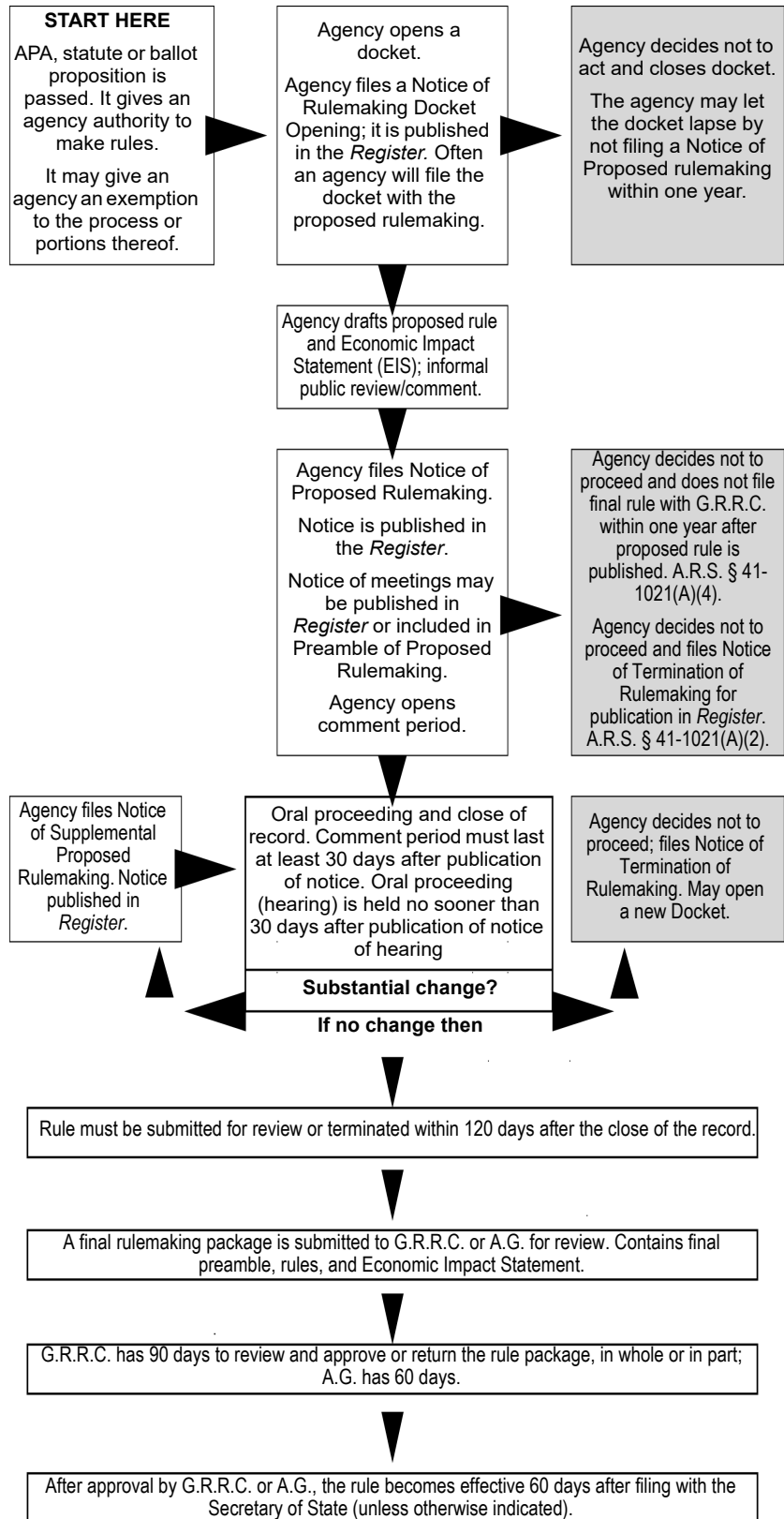
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

Write the agency

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

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

Arizona Regular Rulemaking Process



Final rule is published in the *Register* and the quarterly *Code Supplement*.

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 Rulemaking.

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

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

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any 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 6. ECONOMIC SECURITY

**CHAPTER 4. DEPARTMENT OF ECONOMIC SECURITY
REHABILITATION SERVICES**

[R25-01]

PREAMBLE

- 1. Permission to initiate this rulemaking was granted under A.R.S. § 41-1039 by the governor on:**
June 21, 2023

2. <u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Article 1	Amend
R6-4-101	ReNUMBER
R6-4-101	Amend
R6-4-104	ReNUMBER
R6-4-104	Amend
Article 2	Amend
R6-4-201	Repeal
R6-4-201	New Section
R6-4-202	Amend
R6-4-203	Amend
R6-4-204	Repeal
R6-4-204	ReNUMBER
R6-4-204	Amend
R6-4-205	Amend
R6-4-206	Amend
R6-4-207	New Section
R6-4-208	New Section
R6-4-209	New Section
R6-4-210	New Section
R6-4-301	Amend
R6-4-302	Amend
R6-4-303	Amend
R6-4-304	Amend
R6-4-305	Amend
R6-4-306	Amend
R6-4-307	Amend
R6-4-308	Amend
R6-4-309	Amend
R6-4-310	Amend
R6-4-311	Amend
R6-4-312	Amend
R6-4-313	Amend

R6-4-314	Amend
R6-4-315	Amend
R6-4-316	Amend
R6-4-317	Amend
R6-4-318	Amend
R6-4-319	Amend
R6-4-320	Amend
R6-4-321	Amend
R6-4-322	Amend
R6-4-323	Amend
R6-4-324	Amend
R6-4-325	Amend
Article 4	Repeal
R6-4-401	Repeal
R6-4-401	Repeal
R6-4-401	Repeal
R6-4-401	Repeal
R6-4-401	Repeal
R6-4-402	Repeal
R6-4-402	Repeal
R6-4-403	Repeal
R6-4-403	Repeal
R6-4-404	Repeal
R6-4-404	Repeal
R6-4-405	Repeal

3. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. §§ 41-1954(A)(3) and 46-134(10).
 Implementing statute: 34 CFR 395.4; A.R.S. §§ 23-501 through 23-508, 41-1953(E)(3), 41-1954(A)(1)(d), and 46-134(2).

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

Notice of Rulemaking Docket Opening: 31 A.A.R. 412, January 24, 2025 (in this issue); File number: R25-02

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

Name: Hiroko Flores
 Address: 1789 W. Jefferson, Mail Drop 111G
 Phoenix, AZ 85007
 or
 Department of Economic Security
 P.O. Box 6123, Mail Drop 111G
 Phoenix, AZ 85005
 Telephone: (480) 487-7694
 Fax: (602) 542-6000
 Email: rules@azdes.gov
 Website: <https://des.az.gov/documents-center/des-rules>

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

6 A.A.C. 4 contains rules that govern the Rehabilitation Services Administration’s (RSA’s) Vocational Rehabilitation (VR) services and the Business Enterprise Program (BEP) for entrepreneurs who are blind. Articles 1, 2, and 4 regarding VR were originally created in 1977 and although some of the rules were updated in 1990, most have never been amended. Article 3 regarding BEP has not been amended since it was promulgated in 1990. The Governor’s Office approved a rulemaking moratorium exception for Chapter 4 on June 21, 2023.

The purpose of this rulemaking is to align Chapter 4 with federal regulations and current Department practices, as well as to ensure that the language used in the rule is both modern and respectful to individuals involved with RSA services. In addition, this rulemaking will clarify program requirements for VR clients, stakeholders, and the public. Specifically, the Department is consolidating the rules from Article 4 (“other rules and provisions that relate to providing services to individuals”) into Article 2 (“provision of services to individuals”) and repealing Article 4. This move will result in a unified Article 2 governing all aspects of VR. These changes are consistent with the deficiencies noted in the most recent Chapter 4 Five-Year Review Report approved by the Governor’s Regulatory Review Council on April 2, 2024.

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

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

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

Not applicable.

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

The Department anticipates that the net impact of these rules will benefit consumers and small businesses.

Small Business: The Department anticipates that this rulemaking will have a moderate economic impact (up to \$10,000) on Business Enterprise Program (BEP) Operators. BEP provides employment opportunities for legally blind individuals to own a merchandising business, which includes vending and food service operations. While BEP Operators are assessed monthly based on the amount of income they receive, the benefit of increased economic opportunity and self-sufficiency by earning a median income of approximately \$90,000 per year outweigh the costs.

The Department does not anticipate contractors providing VR services to be affected by the amendments to these rules because redirected funds will continue to be used to provide services to eligible clients.

Consumers: The Department anticipates that this rulemaking will have a moderate economic impact (up to \$10,000) on VR Applicants and VR Clients. Federal VR regulations permit states to consider the financial need of VR Clients when determining the extent of their participation in the costs of specific VR services. Amendments to these rules include updated criteria related to the application of a financial needs test for VR Clients. Implementation of the proposed rules will allow VR to redirect funds currently being used to provide VR services for higher-income individuals to provide services for VR Clients with a financial need who are either on the waitlist for VR services or new VR Clients. The financial needs test standards in the proposed rules will have a potentially negative impact on individuals who do not have a financial need because they will not be eligible for specific VR services that are dependent on an individual having a financial need. Individuals who do not have a financial need, yet require a VR service that is dependent on an individual having a financial need, may be able to obtain the necessary services through comparable benefits or alternative resources.

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

Name: Hiroko Flores
 Address: 1789 W. Jefferson, Mail Drop 111G
 Phoenix, AZ 85007
 or
 Department of Economic Security
 P.O. Box 6123, Mail Drop 111G
 Phoenix, AZ 85005
 Telephone: (480) 487-7694
 Fax: (602) 542-6000
 Email: rules@azdes.gov
 Website: <https://des.az.gov/documents-center/des-rules>

11. 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:

The Department has scheduled the following Oral Proceeding for public comments:

In-Person or Virtual

Date: Tuesday, February 25, 2025
 Time: 2:00 p.m. - 3:00 p.m.
 Location: 1717 W. Jefferson, Conference Room B
 Phoenix, AZ 85007
 Google Meet: <https://meet.google.com/vaq-jmjn-rtj>
 Join by Phone: (US)+1 502-309-9636 PIN: 644 927 222#

Persons may participate in the oral proceeding in person at the location listed above or via Google Meet.

Close of record for this rulemaking is 11:59 p.m., on Tuesday, February 25, 2025.

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

No other matters are prescribed.

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

The rules do not require a permit.

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

The following federal laws and regulations are applicable to the subject of these rules:

- Workforce Innovation and Opportunity Act (WIOA), Public Law 113-128 July 22, 2014 Title IV Amendments to the Rehabilitation Act of 1973;
- The Randolph-Sheppard Act, 20 U.S.C. 107 et seq.; and
- Department of Education, Office of Special Education and Rehabilitative Services, 34 CFR 361, 34 CFR 363, 34 CFR 395, and 34 CFR 397.

The Department has determined that the rules are not more stringent than corresponding 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 rules:

None.

14. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

**CHAPTER 4. DEPARTMENT OF ECONOMIC SECURITY
REHABILITATION SERVICES**

ARTICLE 1. STATE AGENCY ADMINISTRATION

Section

~~R6-4-101. Expired~~
R6-4-104, R6-4-101. Definitions and Location of Definitions

ARTICLE 2. PROVISION OF SERVICES TO INDIVIDUALS THE VOCATIONAL REHABILITATION PROGRAM

Section

~~R6-4-201. General considerations Repealed~~
~~R6-4-201. Definitions and Location of Definitions~~
R6-4-202. Eligibility, ineligibility, and certification Application for VR
R6-4-203. Diagnostic study Eligibility for VR
R6-4-204. Extended evaluation Repealed
~~R6-4-401, R6-4-204. Order of Selection~~
R6-4-205. Individualized written rehabilitation program Individualized Plan for Employment
R6-4-206. Provision of VR services Services
R6-4-207. Closure or Exit from VR
R6-4-208. Confidentiality and Release of Information
R6-4-209. Overview of Appeals
R6-4-210. Appeal Resolution Options

ARTICLE 3. BUSINESS ENTERPRISE PROGRAM

Section

R6-4-301. Definitions and Location of Definitions
R6-4-302. Participating business facilities Business Facilities
R6-4-303. Referral for the business enterprise program; qualifications of candidate Referral to the Business Enterprise Program; Qualifications of Candidate
R6-4-304. Screening for acceptance into initial training Acceptance into Initial Training
R6-4-305. Initial training Training
R6-4-306. Remedial training Training
R6-4-307. Upward mobility training Mobility Training
R6-4-308. Qualifications for placement in a business facility Placement in a Business Facility
R6-4-309. Selection for placement in a business facility Placement in a Business Facility
R6-4-310. Refusal of placement in a facility Placement in a Business Facility
R6-4-311. Licensure
R6-4-312. Operator's agreement Agreement
R6-4-313. Temporary operator Operator
R6-4-314. Initial probation Probation
R6-4-315. Performance probation Probation
R6-4-316. Continuing inspections of business facilities Inspections of Business Facilities
R6-4-317. Exchange of business facilities prohibited Business Facilities Prohibited
R6-4-318. Termination of operator's agreement an Operator's Agreement
R6-4-319. Revocation of license License
R6-4-320. State committee of blind vendors Committee of Blind Vendors
R6-4-321. Assessment against net proceeds of operators Set-aside
R6-4-322. Guaranteed fair minimum of return Fair Minimum of Return
R6-4-323. Distribution and use of federal unassigned vending machine income Use of Federal Unassigned Vending Machine Income
R6-4-324. Reports and recordkeeping; access to information Recordkeeping; Access to Information
R6-4-325. Appeals

**ARTICLE 4. OTHER RULES AND PROVISIONS THAT RELATE TO PROVIDING SERVICES TO INDIVIDUALS-
REPEALED**

Section

R6-4-402. Service and provider standards, service authorizations, equipment purchasing, Workers' Compensation Repealed
R6-4-403. Economic need and similar benefits Repealed

- R6-4-404. ~~Administrative review and fair hearings-Repealed~~
- R6-4-405. ~~Confidentiality-Repealed~~

ARTICLE 1. STATE AGENCY ADMINISTRATION

~~R6-4-101. Expired~~

~~R6-4-104, R6-4-101. Definitions and Location of Definitions~~

- ~~A. "Act." P.L. 93-112, Rehabilitation Act of 1973, as amended.~~
- ~~B. "Client." Any individual receiving any services from Vocational Rehabilitation.~~
- ~~C. "Consultant." Unless stated otherwise, the consultant is the individual hired by the agency for the purpose of providing consultation.~~
- ~~D. "Counselor." Unless stated otherwise, the counselor is the Vocational Rehabilitation counselor.~~
- ~~E. "Department." Unless stated otherwise, the Department is the Department of Economic Security.~~
- ~~F. "Eligible client." Is any individual:

 - ~~1. Who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and~~
 - ~~2. Who can reasonably be expected to benefit in terms of employability from the provision of VR services or for whom an extended evaluation of rehabilitation potential is necessary for the purpose of determining whether he might reasonably be expected to benefit in terms of employability from the provision of VR services; and~~
 - ~~3. Who has been so certified by a Vocational Rehabilitation counselor.~~~~
- ~~G. "Individualized Written Rehabilitation Program (IWRP)." An IWRP is a written program of services developed jointly by the Vocational Rehabilitation counselor and the client who has been determined eligible to receive services. It is a comprehensive document including purposes, goals, responsibilities, services criteria and understandings.~~
- ~~H. "Rehabilitation Services Bureau (RSB)." Is the organizational unit within DES responsible for the operation of the general Vocational Rehabilitation program, rehabilitation programs for the blind and the Disability Certification program.~~
- ~~I. "State plan." The approved plan for VR services and for innovative and expansion grant projects agreeing to administer such in accordance with all applicable regulations, policies and procedures established by the Secretary as a condition to receipt of federal funds under Title I of the Rehabilitation Act of 1973, as amended.~~

~~A. Location of Definitions. Definitions applicable to Chapter 4 are found in the following:~~

Definition	Section or Citation
"Appeal"	R6-4-101(B)
"Business Enterprise Program" or "BEP"	R6-4-101(B)
"Business Facility"	R6-4-101(B)
"Competitive Integrated Employment"	34 CFR 361.5
"Director"	A.R.S. § 23-501
"Employment Outcome"	34 CFR 361.5
"Hearing"	R6-4-101(B)
"Hearing Officer"	A.R.S. § 23-609.01
"Individualized Plan for Employment" or "IPE"	R6-4-101(B)
"Rehabilitation Services Administration" or "RSA"	R6-4-101(B)
"RSA Administrator"	R6-4-101(B)
"Vending Facility"	34 CFR 395.1
"Vocational Rehabilitation" or "VR"	A.R.S. § 23-501
"VR Client"	R6-4-101(B)
"VR Staff"	R6-4-101(B)

~~B. The following definitions apply to Chapter 4:~~

- ~~1. "Appeal" means a request for formal review and resolution of any decision made by VR or BEP.~~
- ~~2. "Business Enterprise Program" or "BEP" means an organizational unit of the Department that provides opportunities for an individual who is Legally Blind to operate a Business Facility under the authority of A.R.S. §§ 23-504(a) and 23-504(b).~~
- ~~3. "Business Facility" means a particular place of merchandising identified by the BEP that provides an opportunity to operate a Vending Facility.~~
- ~~4. "Hearing" means a formal administrative proceeding conducted by an impartial Hearing Officer in the Office of Appeals.~~
- ~~5. "Individualized Plan for Employment" or "IPE" means a written program of services that comprehensively documents the purpose, responsibilities, services, service providers, intermediate objectives, and Employment Outcome necessary for successful rehabilitation.~~
- ~~6. "Rehabilitation Services Administration" or "RSA" means the organizational unit within the Department that is responsible for administering VR and BEP.~~
- ~~7. "RSA Administrator" means an Department employee who oversees the functions and operations of VR and BEP.~~
- ~~8. "VR Client" means an individual who receives services from VR.~~
- ~~9. "VR Staff" means an employee who works in VR.~~

ARTICLE 2. PROVISION OF SERVICES TO INDIVIDUALS-THE VOCATIONAL REHABILITATION PROGRAM

~~R6-4-201. General considerations-Definitions and Location of Definitions~~

- ~~A. Scope of Vocational Rehabilitation services to individuals:

 - ~~1. As appropriate, the following VR services, as described in 45 CFR 401.40(a) will be available to individuals:

 - ~~a. Evaluation of rehabilitation potential;~~
 - ~~b. Counseling, guidance and referral;~~
 - ~~e. Physical and mental restoration services;~~~~~~

- d. Vocational and other training services;
- e. Maintenance;
- f. Transportation;
- g. Services to members of a handicapped individual's family necessary to the adjustment or rehabilitation of the handicapped individual;
- h. Interpreter services for the deaf;
- i. Reader services, rehabilitation teaching services, and orientation and mobility services for the blind;
- j. Telecommunications, sensory and other technological aids and devices;
- k. Placement in suitable employment;
- l. Post-employment services necessary to assist handicapped individuals to maintain suitable employment;
- m. Occupational licenses, tools, equipment and initial stocks (including livestock) and supplies; and
- n. Other goods and services which can reasonably be expected to benefit a handicapped individual in terms of his employability.

B. Vocational Rehabilitation services shall be provided only by Vocational Rehabilitation personnel and only to clients determined eligible for such services by Vocational Rehabilitation personnel.

C. The expenditure of client service funds shall be initiated and authorized only by Vocational Rehabilitation personnel.

A. Location of Definitions. Definitions applicable to this Article are found in the following:

<u>Definition</u>	<u>Section or Citation</u>
<u>"Affirm"</u>	<u>R6-4-201(B)</u>
<u>"Appeal"</u>	<u>R6-4-101(B)</u>
<u>"Appellant"</u>	<u>R6-4-201(B)</u>
<u>"Applicant"</u>	<u>R6-4-201(B)</u>
<u>"Assessment"</u>	<u>R6-4-201(B)</u>
<u>"Authorized Representative"</u>	<u>R6-4-201(B)</u>
<u>"Auxiliary Aids and Services"</u>	<u>28 CFR 35.104</u>
<u>"Business Day"</u>	<u>R6-4-201(B)</u>
<u>"Clear and Convincing Evidence"</u>	<u>34 CFR 361.42</u>
<u>"Client Assistance Program"</u>	<u>R6-4-201(B)</u>
<u>"Comparable Services and Benefits"</u>	<u>34 CFR 361.5</u>
<u>"Competitive Integrated Employment"</u>	<u>R6-4-101(B)</u>
<u>"Department" or "DES"</u>	<u>A.R.S. § 23-501</u>
<u>"Employment Outcome"</u>	<u>R6-4-101(B)</u>
<u>"Family Member"</u>	<u>34 CFR 361.5</u>
<u>"Functional Capacities"</u>	<u>R6-4-201(B)</u>
<u>"Hearing"</u>	<u>R6-4-101(B)</u>
<u>"Hearing Officer"</u>	<u>R6-4-101(A)</u>
<u>"Individualized Plan for Employment" or "IPE"</u>	<u>R6-4-101(B)</u>
<u>"Informed Choice"</u>	<u>R6-4-201(B)</u>
<u>"Integrated Setting"</u>	<u>34 CFR 361.5</u>
<u>"Mediation"</u>	<u>34 CFR 361.5</u>
<u>"Office of Appeals"</u>	<u>R6-4-201(B)</u>
<u>"One-Stop Center"</u>	<u>29 U.S.C. 3102</u>
<u>"Order of Selection" or "OOS"</u>	<u>R6-4-201(B)</u>
<u>"OOS Priority Category"</u>	<u>R6-4-201(B)</u>
<u>"Party"</u>	<u>R6-4-201(B)</u>
<u>"Physical or Mental Impairment"</u>	<u>34 CFR 361.5</u>
<u>"Post-employment Services" or "PES"</u>	<u>34 CFR 361.5</u>
<u>"Pre-employment Transition Services"</u>	<u>34 CFR 361.5</u>
<u>"Primary Source Information"</u>	<u>R6-4-201(B)</u>
<u>"Remand"</u>	<u>R6-4-201(B)</u>
<u>"Reverse"</u>	<u>R6-4-201(B)</u>
<u>"Qualified and Impartial Mediator"</u>	<u>34 CFR 361.5</u>
<u>"Qualified Personnel"</u>	<u>R6-4-201(B)</u>
<u>"RSA"</u>	<u>R6-4-101(B)</u>
<u>"RSA Administrator"</u>	<u>R6-4-101(B)</u>
<u>"RSA Ombudsman"</u>	<u>R6-4-201(B)</u>
<u>"Secondary Source Information"</u>	<u>R6-4-201(B)</u>
<u>"State Plan"</u>	<u>29 CFR 3102</u>
<u>"Substantial Impediment to Employment"</u>	<u>34 CFR 361.5</u>
<u>"Trial Work Experience"</u>	<u>R6-4-201(B)</u>
<u>"VR"</u>	<u>R6-4-101(B)</u>
<u>"VR Application Form"</u>	<u>R6-4-201(B)</u>
<u>"VR Client"</u>	<u>R6-4-101(B)</u>
<u>"VR Staff"</u>	<u>R6-4-101(B)</u>

B. The following definitions apply to Article 2 of this Chapter:

1. "Affirm" means to uphold a decision or determination issued by another authority including VR, BEP, or the Office of Appeals.

2. “Appellant” means a person, entity, or group of persons who has filed an Appeal or otherwise requested a Hearing to review and resolve a decision made by VR.
3. “Applicant” means an individual who submits an application in accordance with R6-4-202.
4. “Assessment” means the same as “Assessment for Determining Eligibility and Vocational Rehabilitation Needs” as defined in 34 CFR 361.5(c)(5).
5. “Authorized Representative” means any adult designated by an individual to represent the individual, including a parent, guardian, other Family Member or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual’s Authorized Representative.
6. “Business Day” means Monday through Friday, excluding holidays as listed in A.R.S. § 1-301.
7. “Client Assistance Program” means a program authorized under 29 U.S.C. 732, which is independent of the State VR and that provides information, advocacy, and legal representation to an individual seeking VR services from the State VR.
8. “Functional Capacities” means an individual’s ability to function in terms of an Employment Outcome in the following areas:
 - a. Communication, including an individual’s ability to understand others, to intelligibly and coherently express thoughts, to read and write sufficiently for work-related activities, or to access job information without assistive technology or accommodation.
 - b. Interpersonal skills, including an individual’s ability to establish and maintain relationships with others at a level that allows the individual to participate in work-related activities.
 - c. Mobility, including an individual’s physical ability to perform a required task, as well as an individual’s ability to understand and process a required task to completion to get to work from home and to move around a work site or participate in work activities.
 - d. Self-care, including an individual’s ability to make decisions that do not harm self or others and to perform activities of daily living such as eating, hygiene, health care, and dressing at a level that allows the individual to participate in work activities.
 - e. Self-direction, including an individual’s ability to make positive adjustments to disability-related limitations, to identify logical steps to accomplish activities and goals, and to make decisions in one’s own best interest at a level that allows the individual to participate in work activities.
 - f. Work skills, including an individual’s ability to follow instructions and meet employment expectations such as maintaining good attendance, learning, and performing job tasks with minimal assistance.
 - g. Work tolerance, including an individual’s ability to meet the demands of participating in work-related activities, such as maintaining physical or mental stamina and working at a pace consistent with other employees in the same work-related activity.
9. “Informed Choice” means a decision-making process in which an Applicant or VR Client analyzes relevant information and selects, with the assistance of VR, an Employment Outcome, intermediate objectives, services, and service providers.
10. “Office of Appeals” means the authority within the DES Appellate Services Administration that conducts a Hearing on an Appeal as authorized by law.
11. “Order of Selection” or “OOS” means an organized and equitable method for serving groups of VR Clients in a priority order if all individuals cannot be served.
12. “OOS Priority Category” means one of three categories the Department uses to prioritize services to VR Clients based on the extent to which a VR Client’s Physical or Mental Impairment restricts Functional Capacities in terms of an Employment Outcome, expected service needs, and length of time the VR Client is expected to require VR services.
13. “Party” means an Appellant or the Department.
14. “Primary Source Information” means all information that VR has acquired through personal interaction with an individual and evaluations or reports done at VR Staff’s request and written specifically for VR.
15. “Qualified Personnel” means an individual qualified to diagnose and document the existence of disability in accordance with applicable national or state certification, licensing, registration, or other comparable requirement that applies to the profession or discipline.
16. “Remand” means to send back a case to the authority that issued the decision or determination, including VR, BEP, or the Office of Appeals, for further action.
17. “Reverse” means to change a decision or determination issued by another authority, including VR, BEP, or the Office of Appeals that results in a conclusion opposite to the original decision or determination.
18. “RSA Ombudsman” means an employee of the Department who is assigned to investigate a complaint or a request for an Appeal received from an Applicant or VR Client about VR decisions and to facilitate the process from the receipt of a complaint or request for an Appeal through final resolution.
19. “Secondary Source Information” means all information other than Primary Source Information that VR acquires and is not originally created for the use of VR.
20. “Trial Work Experience” means a functional evaluation of skill development activities in accordance with 34 CFR 361.42(e).
21. “VR Application Form” means a document approved by the Department that allows an individual to request VR services.

R6-4-202. Eligibility, ineligibility, and certification Application for VR

- ~~A. Eligibility is based only on the presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment, and a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.~~
- ~~B. Eligibility requirements will be applied without regard to sex, race, age, creed, color or national origin. No group of individuals will be excluded or found ineligible solely on the basis of type of disability. No upper or lower age limit will be established which will, of itself, result in a finding of ineligibility for any individual who otherwise meets the basic eligibility requirements.~~
- ~~C. No residence requirement, durational or other, is imposed which excludes from services any individual who is in the state.~~

- D.** An individual who has been declared eligible for VR services in another state may or may not be eligible for services in this state, and the Arizona VR counselor must redetermine eligibility.
- E.** Any individual referred to VR who freely decides not to apply for services or who indicates expressly or by action that he is not interested in pursuing an application for VR services may be screened out without initiating a case file. A record of such action shall be kept in each local office for at least 12 months.
- F.** The application for VR services shall be a formal declaration by the handicapped individual that he is requesting the assistance of Vocational Rehabilitation agency and its involvement in his rehabilitation effort. Such an application implies that the applicant has a basic understanding of the eligibility requirements, knowledge of the kind of services the agency provides, a desire to undertake a rehabilitation program and understanding of both his and the agency's obligations and responsibilities.
- G.** Any individual who has reached the age of 18, or is married, or is in the armed forces, or is living away from home and is self supporting or who has not had a guardian appointed for him is regarded as an adult and may sign his own application and any other VR documents requiring client signatures. Parent or guardian co-signatures are otherwise required.
- H.** In each instance, there shall be a certification, dated and signed by a VR counselor as to eligibility or ineligibility for services or for an extended evaluation. The certification that the individual has met the eligibility requirements shall be made prior to or simultaneously with acceptance of a handicapped individual for VR services. The certification for extended evaluation and the certification of ineligibility shall be issued pursuant to the requirements of 45 CFR 401.37(b) and (c) respectively.
- I.** An individual determined to be rehabilitated will have been, as a minimum:
 - a. Determined to be eligible;
 - b. Provided an evaluation of rehabilitation potential and counseling and guidance, as essential VR services;
 - c. Provided appropriate VR services in accordance with the individualized written program;
 - d. Determined to have achieved suitable employment which has been maintained for at least 60 days.
- 2. Post employment services will be provided to those individuals determined to be rehabilitated who require such services to the extent necessary to maintain suitable employment.
- A.** An individual who is an Arizona resident or who is present and available in Arizona may apply for VR.
- B.** The VR Application Form shall include authorization for VR to obtain and release personal information as needed to administer VR.
- C.** VR shall consider a VR Application Form submitted when an individual:
 - 1. Has completed and signed a VR Application Form, or has completed a common intake application form in a One-Stop Center and has requested VR services; and
 - 2. Has provided VR with information necessary for VR Staff to conduct an Assessment and is available to complete the Assessment so that VR is able to determine the individual's eligibility and OOS Priority Category for VR services.
- D.** The parent or legal guardian of an individual under the age of 18 shall sign VR documents on behalf of the individual and shall be involved in decisions regarding VR services to the individual. An individual who has reached the age of 18 and who has not had a legal guardian appointed may sign the VR Application Form and any other VR documents requiring signature on the individual's own behalf.
- E.** The date of application submittal recorded for an individual shall be the earliest date on which the application requirements described in this section have been met and the signed VR Application Form has been received in a local VR office.

R6-4-203. Diagnostic study-Eligibility for VR

- A.** Preliminary diagnostic study:
 - 1. In order to determine whether any individual is eligible for vocational rehabilitation services, there shall be a preliminary diagnostic study sufficient to determine:
 - a. Whether the individual has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment, and
 - b. Whether VR services may reasonably be expected to benefit the individual in terms of employability or whether an extended evaluation of rehabilitation potential is necessary to make such a determination. It will place primary emphasis upon the determination of a vocational goal for the individual and his potential for achieving such a goal.
 - 2. Information required for preliminary diagnostic study:
 - a. Each applicant shall have documented in the file a complete medical assessment in order to appraise current general health status. The general medical assessment will include a medical history, thorough physical examination and a routine urinalysis. The decision as to what is current is determined on an individual basis.
 - b. Examinations and diagnostic studies necessary for the agency to determine whether the individual has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.
 - c. In all cases of mental or emotional disorders, an examination will be provided by a physician or by a certified psychologist skilled in diagnosis and treatment of such disorders.
 - d. In cases of alcoholism and drug addiction, evidence from such sources as hospital records, a physician's report, a social summary or treatment facility, records will be necessary to document the existence of these disabilities.
- B.** Thorough diagnostic study:
 - 1. Before implementation of an IWRP for a client, a thorough diagnostic study shall be completed, to include:
 - a. As appropriate, a comprehensive evaluation of pertinent medical, psychological, vocational, educational and other related factors such as personal, vocational and social adjustment, patterns of work behavior, ability to acquire job skills and capacity for successful job performance which bear on the individual's handicap to employment and scope of rehabilitation services needed. The findings of such study(s) must be recorded in client's individual case folders.
 - b. In all cases of visual impairment, an evaluation of visual loss will be provided by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select.
 - c. In all cases of blindness, a screening for hearing loss will be obtained from a physician skilled in the diseases of the ear or from an audiologist licensed or certified in accordance with state laws and regulations.

- d. In all cases of hearing impairment, an evaluation of the auditory system will be obtained from a physician skilled in the diseases of the ear and based on his findings a hearing evaluation may be provided by such a physician or by a licensed audiologist.
 - e. In all cases of deafness, an evaluation of the individual's vision will be provided by a physician skilled in the diseases of the eye or by an optometrist.
 - f. In all cases of mental retardation, a psychological evaluation will be obtained from a psychologist certified by the Arizona State Board of Psychologist Examiners which will include a valid test of intelligence, an assessment of social functioning and educational progress and achievement.
 - g. In all cases where drug addiction or alcoholism are documented as disabilities, evaluation by a certified psychologist or psychiatrist skilled in the diagnosis and treatment of mental or emotional disorders must be obtained.
- C.** The client shall be offered and given the choice of physicians, psychologists or providers of diagnostic services in all cases with the following restrictions:
- 1. The counselor, in consultation with medical/psychological and other appropriate consultants and within the limits set by law and described in these regulations, determines both the scope and type of studies and evaluations to be acquired;
 - 2. The individuals chosen to do the necessary diagnostic studies and evaluations must have the minimum qualifications set forth in law and described elsewhere in these rules and regulations (see Section R6-4-302);
 - 3. If the agency has contracted with someone or some group to provide specific diagnostic studies or evaluations, their services must be utilized unless special considerations noted in the file deem it inappropriate to do so;
 - 4. The individuals chosen to do the necessary diagnostic studies and evaluations must also be willing and able to conform to set fee schedules and reporting requirements.
- A.** An Applicant for VR services shall participate in an Assessment and a determination of OOS Priority Category. The Assessment shall be conducted in accordance with 34 CFR 361.42.
- B.** VR shall consider an Applicant eligible for VR when VR Staff determine that all of the following are met:
- 1. Basic requirements.
 - a. Qualified Personnel have diagnosed the Applicant with a Physical or Mental Impairment;
 - b. An Applicant's Physical or Mental Impairment constitutes or results in a Substantial Impediment to Employment; and
 - c. An Applicant requires VR services to prepare for, secure, retain, or regain an Employment Outcome consistent with the Applicant's strengths, resources, priorities, concerns, abilities, capabilities, interests, and Informed Choice.
 - 2. Presumption of ability to benefit. VR shall presume that an Applicant who meets the eligibility requirements in R6-4-203(B)(1) would benefit from VR services in terms of achieving an Employment Outcome unless Clear and Convincing Evidence demonstrates that the Applicant is incapable of benefitting from VR services in terms of an Employment Outcome. The demonstration of Clear and Convincing Evidence shall include, if appropriate, a Trial Work Experience, with any necessary supports, including assistive technology, in real life settings.
- C.** VR shall consider an Applicant whose current eligibility for Social Security benefits under Title II or Title XVI of 42 U.S.C. 7 (Social Security Act) has been verified by VR Staff, to be presumed eligible for VR services under R6-4-203(B) and considered at least a Priority 2 in accordance with R6-4-204(D)(2).
- D.** VR shall determine an Applicant's eligibility within 60 calendar days from the date an Applicant submits a VR Application Form to VR, in accordance with R6-4-202(C), unless:
- 1. In accordance with 34 CFR 361.42, exceptional and unforeseen circumstances beyond VR's control preclude making an eligibility determination within 60 calendar days and a specific extension of time has been agreed upon by appropriate VR Staff and the Applicant; or
 - 2. An Applicant's ability to benefit from VR services in terms of achieving an Employment Outcome cannot be presumed due to the significance of disability and an exploration of the individual's abilities, capabilities, and capacity to perform in work situations is carried out in accordance with 34 CFR 361.42(e) precludes making an eligibility determination within 60 calendar days.
- E.** If VR determines that an Applicant or VR Client does not meet, or no longer meets eligibility requirements in R6-4-203(B)(1) and (2), VR shall:
- 1. Offer the individual opportunity for consultation;
 - 2. Inform the individual, in writing, of the determination and reasons for the determination;
 - 3. Provide the individual with a notice of case closure, Appeal rights, and Client Assistance Program information;
 - 4. Refer the individual to federal, state, or local programs, service providers, and programs available through the one-stop service delivery system; and
 - 5. Review within 12 months, and annually thereafter, if requested by the individual, any ineligibility determination that is based on findings that the individual is incapable of achieving an Employment Outcome.
- F.** VR Staff shall not discriminate against any Applicant or VR Client, in accordance with state and federal laws.

R6-4-204. Extended evaluation Repealed

- A.** An extended evaluation is used for those individuals for whom the presence of a disability which constitutes a substantial handicap for employment has been documented but for whom the counselor is unable to make a determination that services might benefit the individual in terms of employability without an extended evaluation to determine rehabilitation potential.
- B.** The full range of VR services will be provided under an IWRP during extended evaluation but for no longer than 18 months and in conformity with 45 CFR 401.36(b) and (c). The individual's progress will be thoroughly assessed as frequently as necessary but at least once every 90 days while services are provided. Periodic reports from those providing services will be considered in this assessment. The extended evaluation will be terminated in accordance with 45 CFR 401.36(e).

R6-4-401-R6-4-204. Order of Selection

- A.** The order of selection is an organized, equitable method for serving selected groups of handicapped individuals in their order of priority if all eligible individuals who apply cannot be served.

- B.** The state agency shall maintain the following order of selection:-
1. The severely handicapped (as defined by R.S.A. Chapter 3005.00, Statistical Reporting System);-
 2. The disabled public assistance recipients;-
 3. The deaf blind. This target group population is comprised of those handicapped individuals who are:-
 - a. Visually impaired within the definition used by SBS for eligibility for Vocational Rehabilitation services;-
 - b. Deaf to the extent that the individual is not able to hear normal speech with or without amplification or not expected to be able to do so in the near future as a result of a progressive disease process; and-
 - c. Who need services not available traditionally in programs serving either one or the other of disability groups alone.-
 4. The developmentally disabled.-
 - a. The term "developmental disability" means a disability of a person which:-
 - i. Is attributable to mental retardation, cerebral palsy, epilepsy or autism;-
 - ii. Is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or-
 - iii. Is attributable to dyslexia resulting from a disability described in subsection (B)(4)(a)(i) or (ii);-
 - b. Originates before such person attains age 18;-
 - c. Has continued or can be expected to continue indefinitely; and-
 - d. Constitutes a substantial handicap to such person's ability to function normally in society.-
 5. All other eligible vocationally handicapped individuals with the state.
- A.** VR shall use the information from the Assessment to the greatest extent possible when determining a VR Client's OOS Priority Category.
- B.** VR shall obtain additional evaluations from Qualified Personnel if existing records are not available or are insufficient to determine an OOS Priority Category.
- C.** VR shall determine a VR Client's OOS Priority Category by evaluating how the individual's disability restricts Functional Capacities in terms of employment and VR services needed to address any restrictions of those Functional Capacities.
- D.** VR shall assign a VR Client to an appropriate OOS Priority Category after determining eligibility and prior to planning and implementing an IPE. The OOS Priority Categories are:
1. Priority 1: Most Significant Disability – a VR Client who:
 - a. Has a severe Physical or Mental Impairment that seriously restricts three or more Functional Capacities in terms of an Employment Outcome; and
 - b. Is expected to require two or more VR services provided over an extended period of time to achieve an Employment Outcome.
 2. Priority 2: Significant Disability – a VR Client who:
 - a. Has a severe Physical or Mental Impairment that seriously restricts one or two Functional Capacities in terms of an Employment Outcome;
 - b. Is expected to require two or more VR services provided over an extended period of time to achieve an Employment Outcome; and
 - c. Is a person with one or more of the disabilities listed in 34 CFR 361.5(c)(30)(iii).
 3. Priority 3: All other VR Clients with a disability who do not meet the criteria for Priority 1 or Priority 2.
- E.** When sufficient funds are not available for VR to provide the full range of VR services to all VR Clients, VR shall develop and implement the VR Client's IPE in priority order based on the application date identified in R6-4-202(D).
1. Priority 1 is served first, Priority 2 is served after all VR Clients in Priority 1 are served, and Priority 3 is served after all VR Clients in Priority 1 and Priority 2 are served.
 2. A VR Client assigned to an OOS Priority Category who is not being served shall be notified that the individual is on a waitlist for VR services. VR shall provide the eligible Applicant information on, and a referral to, federal, state, and local resources.
- F.** VR shall not place a VR Client on the waitlist if the VR Client's IPE is implemented prior to the date the Department determines funding is not available to serve a VR Client in that VR Client's OOS Priority Category.
- G.** If a VR Client does not have an implemented IPE on the date the Department determines funding is not available to serve a VR Client in the identified OOS Priority Category, the VR Client shall be placed on a waitlist.
- H.** VR shall continue to provide Pre-employment Transition Services, regardless of OOS Priority Category, to students with disabilities who were receiving Pre-employment Transition Services prior to being determined eligible for VR services. Pre-employment Transition Services are subject to the availability of funding.

R6-4-205. ~~Individualized written rehabilitation program~~ Individualized Plan for Employment

- A.** ~~An individualized written rehabilitation program will be initiated and continuously developed for each handicapped individual eligible for VR services and each handicapped individual being provided such services under an extended evaluation. All VR services will be provided in accordance with such a program. This program will be developed jointly by the VR counselor and the handicapped individual (or, as appropriate, his parent, guardian or other representative). It will emphasize primarily the determination and achievement of a vocational goal. A copy of the written program, and any amendments thereto, will be provided to the handicapped individual, or as appropriate, his parent, guardian, or other representative.~~
- B.** ~~The program shall be initiated after certification of eligibility or certification for extended evaluation. The program will include at least the information described in 45 CFR 401.39(e), as appropriate. The program will be reviewed at least annually, at which time the individual (or, as appropriate, the parent, guardian or other representative) will be afforded opportunity to review the program and if necessary redevelop its terms jointly with the appropriate state agency staff member. When services are to be terminated on the basis of a determination that the individual cannot achieve a vocational goal, the conditions set forth in 45 CFR 401.39(e)(1) and (2) will be met. There will be at least an annual review of the ineligibility decision, in which the individual will be given opportunity for full consultation.~~

A. Development of the IPE.

1. VR shall inform the VR Client that the IPE may be developed on the VR Client's own or with support and assistance from one or more of the following:
 - a. A VR counselor employed by VR;
 - b. A VR counselor not employed by VR;
 - c. A disability advocacy organization; or
 - d. A Family Member, advocate, Authorized Representative, or other individual.
2. The IPE is developed, to the extent possible, using data from the Assessment or data gathered from additional Assessment activities when additional data is necessary to establish the VR Client's Employment Outcome and nature and scope of VR services to be included in the IPE.
3. The final IPE shall be prepared on RSA-approved forms and submitted to appropriate VR Staff for review and approval prior to the provision of services identified on the IPE.

B. Approval of the IPE.

1. VR, through the review of original documents, shall verify that a VR Client is legally eligible to work in the United States, in accordance with the requirements of Employment Eligibility Verification set forth by the Department of Homeland Security, United States Citizenship and Immigration Services, prior to approving an IPE. If VR is unable to verify that the VR Client is legally eligible to work in the United States, VR shall provide a written notice to the VR Client stating that the VR Client's case is being closed, the reason for the case closure, and how the VR Client may request an Appeal.
2. VR shall review the IPE and verify:
 - a. The chosen Employment Outcome is consistent with the information and results of the Assessment;
 - b. The chosen Employment Outcome does not violate federal or state law;
 - c. The services necessary on the IPE are necessary for the VR Client to obtain the specific Employment Outcome; and
 - d. All required elements of the IPE are complete.
3. An IPE is approved and VR services may be implemented when the IPE is signed by the VR Client.
4. VR shall implement an IPE in accordance with 34 CFR 361.45 and 361.46:
 - a. Within 90 calendar days from the date of eligibility determination for each VR Client who is not on a waitlist for VR services; or
 - b. Within 90 calendar days after the date that the VR releases the VR Client from the waitlist unless a specific extension of time has been agreed upon by appropriate VR Staff and the VR Client.

C. Review and amendment of the IPE.

1. VR and a VR Client shall review the IPE at least annually from the time the IPE is approved to assess the VR Client's progress in achieving the established milestones, timelines, and specific Employment Outcome identified in the IPE.
2. In accordance with the VR Client's IPE, a VR Client shall maintain contact with VR as requested by VR Staff, actively participate in VR, and meet intermediate objectives outlined in the IPE necessary toward achieving the specific Employment Outcome identified in the IPE to continue receiving VR services.
3. VR and a VR Client shall attempt to address any barrier to the VR Client's progress in achieving the intermediate objectives outlined in the IPE and specific Employment Outcome identified in the IPE prior to amending the IPE or interrupting provision of VR services.
4. If a barrier to progress in achieving the intermediate objectives outlined in the IPE and specific Employment Outcome identified in the IPE cannot be resolved by VR or the VR Client, VR services may be interrupted until the barrier is resolved to the satisfaction of VR. If VR services are interrupted by VR, the VR Client may Appeal the interruption of VR services.
5. If VR services are interrupted and the VR Client submits an Appeal regarding the interruption of VR services, VR shall continue provision of VR services as identified in the current and approved IPE until the Appeal is resolved in accordance with R6-4-209 and R6-4-210.
6. A VR Client and VR shall amend the IPE as necessary and appropriate when there are changes to the VR Client agreed upon Employment Outcome, VR services to be provided, or service providers.
7. Amendments to an IPE and the provision of new VR services shall not take effect until agreed upon and signed by both the VR Client and appropriate VR Staff.

R6-4-206. Provision of VR services-Services**~~A. Scope and general considerations:~~**

1. ~~Rehabilitation Services Bureau provides all those services included under scope of services outlined in R6-4-201(A) and for which federal government provides financial participation.~~
2. ~~No VR services shall be provided to VR personnel or their families without prior review and approval of District VR Program Manager and the Chief of Rehabilitation Services Bureau. All such actions shall also be reviewed by Department of Economic Security administration.~~
3. ~~Cases and case facts, including the Individualized Written Rehabilitation program, shall be subject to review by VR administrative and consultative personnel.~~

~~B. Restoration services:~~

1. ~~Physical or mental restorative services shall be provided only by individuals specially qualified to provide such services. The agency has established provider standards which are on file with Rehabilitation Services Bureau and available for review to the public on request.~~
2. ~~Any IWRP, Program of Services, which proposes to provide physical or mental restorative services in excess of \$5,000 shall be submitted for review and approval by the District VR Program Manager and consultants, as appropriate.~~
3. ~~Restorative procedures that might be considered investigative, controversial or of high risk to the client shall be subject to approval by Rehabilitation Services Bureau administration.~~

4. A course of physical or mental restoration shall not extend beyond three months without an assessment of documented progress made towards stated goals. Authorization for additional physical or mental restoration shall be predicated upon acceptable progress to date, and the setting of treatment goals for any subsequent course of therapy.
5. Authorization for inpatient care at any hospital, rehabilitation center, skilled nursing facility or any other institutions whose primary function it is to provide medical or allied services shall be for a specified period of time. A comprehensive assessment of progress to date and a statement of justification by the treating physician will be required for any extension exceeding 30 days.
6. Chronic conditions; e.g., diabetes, epilepsy, which were diagnosed and placed on an effective medical regime before an individual becomes a client shall not become the responsibility of VR. The counselor shall not pay for his ongoing health maintenance costs.

C. Training services.

1. Training services shall be provided to prepare an eligible individual with the necessary skills for employment consistent with the rehabilitation goal.
2. All training, including OJT's, purchased from private schools or individuals shall be provided under a contract signed by the VR counselor and the trainer or representative of the training institution.
3. Training services will be provided to prepare a client for placement at entry level requirements. In the case of higher education, VR will normally conclude sponsorship of training with completion of a bachelor's degree. Consideration will be given to the special needs of a severely disabled individual who may require post graduate training due to an inability to work at entry level.
4. The VR client shall be given his choice of properly licensed private, technical, business and vocational training schools. The counselor, however, shall also consider:
 - a. Relative costs of training;
 - b. Transportation;
 - c. Living arrangements;
 - d. Other factors bearing on the particular client situation.
5. VR shall not pay non-resident fees to out-of-state schools if the same training programs are available within the state.
6. VR may pay non-resident fees to a local school if required and necessary to carry out an IWRP, Program of Services.
7. Training at private, business, technical and vocational schools shall be paid for on a month-to-month basis after the service has been provided. Encumbrances shall be written prior to the provision of training. If a client withdraws from training prior to completion, VR shall pay only for that portion of the training utilized by the client on a prorated basis.
8. On-the-job training shall be that training purchased under contract from an employer who provides the individual training on the job site. Such arrangements may result in an employer/employee relationship subject to wage and hour laws under the Fair Labor Standards Act.
9. OJT contracts shall be written only in those instances where the client does not meet the entry and/or production requirements for that job without a period of on-the-job training or unless a period of on-the-job training is necessary to provide an employment opportunity for the individual.
10. OJT contracts shall be written only for those occupations in which the client, upon successful completion of the on-the-job training, can reasonably be expected to become employed. OJT contracts shall not be written for:
 - a. Occupations in which commissions provide more than 50% of client's salary;
 - b. Intermittent seasonal occupations;
 - c. Occupations which require licenses such as therapists, teachers, barbers, cosmetologists, nurses, etc.
11. Workmen's Compensation Insurance shall be provided by VR for the duration of an OJT contract unless such coverage is provided by the employer.
12. Wages to be paid the client upon successful completion of an OJT contract shall be comparable to wages of other employees engaged in similar work and at the same production level.
13. An employer may not have more than 25% of his labor force under OJT contracts. If an employer has fewer than four employees, he may be given one OJT contract if he demonstrates the capability of providing the necessary training.
14. Payment to the employer under an OJT contract shall never be in excess of 50% of client's wages averaged over the length of the contract.
15. All training and adjustment services shall be provided under established standards (see R6-4-302(A) and (B)).

D. Maintenance.

1. Maintenance means payments, not exceeding the estimated cost of subsistence and provided at any time from the date of initiation of vocational rehabilitation services through the provision of post-employment services, to cover a handicapped individual's basic living expenses, such as food, shelter, clothing and other subsistence expenses. Maintenance is provided only in order to enable a handicapped individual to derive the benefit of other vocational rehabilitation services being provided.
2. General considerations:
 - a. Vocational Rehabilitation is not legally obligated to meet the total costs of living for its clients nor does the budget provide funds to do so. Because of these limitations, maintenance payments are provided only to assist the client with expenses essential to services listed in the client's individualized written rehabilitation program and approved in advance by the Vocational Rehabilitation in an IWRP, Program of Services, except for those maintenance payments necessary to complete diagnostic services.
 - b. Maintenance may not be paid out of SSI/SSDI special funds unless it is to defray extra costs of client living away from home because of participation in a rehabilitation program. If a counselor decides to pay regular maintenance for a client eligible for special funds, but not eligible for maintenance under those funds, maintenance must be paid for out of regular funds and are subject to all regulations set forth in this subsection.
 - c. Maintenance checks may be paid directly to the client, to the training agent or to parents or guardian or other representative.
 - d. The counselor must monthly review, adjust, as appropriate, and authorize the disbursement of maintenance checks.
 - e. The combined total of maintenance plus the client's income will never exceed client's actual client monthly obligations.

- f. Maintenance for a client who must live on campus, in a rehabilitation facility, halfway house, or boarding home may be paid to the college, school or facility directly either for only that portion of maintenance to include room and board or for distribution of total maintenance.
 - g. Maintenance may not be provided for clients pursuing academic college level training as a part time student, as defined by the school, except in the case of an extended evaluation to determine rehabilitation potential and then only after prior supervisory review.
 - h. Maintenance may never be provided for the sole purpose of meeting total costs of subsistence for clients or to supplement other resource (AD, SSDI, etc.) deficiencies.
 - i. Unusual client circumstances may call for an administrative adjustment by the District VR Program Manager in the rates set on a case-by-case basis.
3. Provision of maintenance.
- a. No economic need criteria apply to maintenance provided while client is receiving diagnostic services regardless of status. Maintenance in this case is only that money necessary to defray costs to client during a period away from the home. The amount of maintenance may never exceed the actual costs incurred by the client as a result of participating in the diagnostic study.
 - b. Maintenance as ongoing payments during an IWRP will never, together with client income, exceed established client monthly obligations.
 - i. All liquid assets must be used first.
 - ii. Once liquid assets have been used, the following procedure is used:
 - (1) If client does not meet the economic need criteria, no maintenance may be provided. When the client does meet the economic need criteria, the counselor must complete the Financial Disclosure Statement and compare client's total income to client's monthly obligations;
 - (2) The counselor may provide maintenance payments necessary to assist client with expenses essential to accomplishing the services listed in the client's IWRP up to documented need; i.e., monthly obligations, but never to exceed the maximum allowed.
 - c. Maintenance payments above the basic rate may be approved by the supervisor when they are provided to meet special client needs which are ongoing but not normally considered as usual subsistence requirements. Such special needs may include special diet, ongoing repair and maintenance of assistive devices, ongoing need for medical supplies such as stump socks, catheters, etc. These needs must be documented and explained on the client's IWRP.
4. A counselor may pay for a client's attendant care only as necessary while client is engaged in a program of services. Financial need criteria as well as the need to explore and use similar benefits, if available, apply. Vocational Rehabilitation does not accept responsibility for total costs of attendant care. Vocational Rehabilitation will pay for such care within the following guidelines:
- a. The client must have a doctor's statement regarding the need for and extent of attendant care required.
 - b. For the purpose of computing the amount of Vocational Rehabilitation's contribution, a distinction is made between:
 - i. Training or training related costs, such as preparation for school, transportation to and from school, assistance while in school.
 - ii. Attendant care not directly related to a specific rehabilitation activity but necessary for health maintenance. Such care can and is often provided by family or friends and should not be paid for by Vocational Rehabilitation unless absolutely necessary, and unless it is a direct cost item to the client.
 - c. Hourly minimum wage shall be paid to attendants; however, Rehabilitation Services Bureau will not contribute more than \$150 monthly for each type of attendant care.
- E.** Transportation. In providing transportation monies to the VR client, the following rules shall be applied:
- 1. Client may only be reimbursed for actual costs for transportation and per diem.
 - 2. The counselor shall determine the most economical, yet adequate, mode of transportation available to client.
 - 3. The maximum allowed per diem shall never be more than \$30 a day.
- F.** Other services:
- 1. The VR counselor shall not purchase for a client automobiles, trucks or any other self-powered vehicles which require licensing by the state. Included in this prohibition is purchasing or contributing to the cost of those accessories or optional equipment normally available by or through automobile manufacturers or dealers in the purchase of a new vehicle.
 - 2. The VR counselor may purchase assistive devices and modifications designed to allow a handicapped individual to use or operate a vehicle either for a new or used vehicle.
 - 3. The VR counselor may purchase or contribute to the purchase, accessories or optional equipment as well as assistive devices and modifications to used or previously purchased vehicles when such are medically prescribed.
- A.** General provisions.
- 1. VR shall provide allowable services in accordance with 34 CFR 361 that are necessary to assess an Applicant's eligibility and OOS Priority Category, develop a VR Client's IPE, or assist a VR Client in preparing for, securing, retaining, advancing, or regaining an Employment Outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and Informed Choice of the VR Client as identified in the most current and approved IPE. VR shall ensure that all goods and services purchased by VR are necessary to the Employment Outcome and documentation is available to support the expenditure.
 - 2. VR shall give preference to an in-state service of the lowest cost, provided the preference does not effectively deny a VR Client a necessary service. If a VR Client chooses to engage in a service at a higher cost than an in-state service of the lowest cost when either service would meet the VR Client's rehabilitation needs:
 - a. The service shall be provided within the continental United States; and
 - b. The individual is responsible for costs in excess of the cost of the in-state service of the lowest cost.
 - 3. Involvement in VR does not entitle an individual to any specific VR services.

- B.** The following are not considered VR services and shall not be provided by VR:
1. Reimbursement to a VR Client for debts and expenses incurred that have not been agreed to and that are not included on an authorization or in the current approved IPE;
 2. Ongoing or long-term support of a self-employment business venture;
 3. Basic living expenses (food, shelter, clothing, hygiene products) that are not in excess of a VR Client's normal expenses due to the VR Client's participation in VR;
 4. General living costs resulting from a loss of income due to participation in VR services or a self-employment plan;
 5. A service that is available from another agency or organization as a comparable benefit when the use of comparable benefits is required;
 6. A service based on economic need for an individual who does not meet VR's economic need criteria as described in R6-4-206(D);
 7. A salary, wage, or payment for an individual in a self-employment plan or the individual's employees;
 8. A self-employment business venture that is illegal, high-risk, or shows minimal chance of profitability;
 9. Co-signing or underwriting of a loan or refinancing of any debt;
 10. Multiple self-employment businesses;
 11. Operating capital, franchise fees, and support for non-profit businesses (self-employment);
 12. Legal service fees, attorney fees, court fines, or traffic tickets;
 13. A vehicle purchase, lease, rental fee, monthly vehicle payment, or registration;
 14. Businesses or services that are determined to be illegal by federal or state law;
 15. Purchase of a residence, land, construction, or major modification of a building;
 16. A treatment service that is not medically and vocationally necessary to achieve the Employment Outcome, as identified in the most current approved IPE; and
 17. An experimental, high-risk, or controversial treatment procedure.
- C.** Procurement of services.
1. VR shall adhere to the applicable federal, state, Department, and VR laws, regulations, policies, and procedures;
 2. VR shall inform individuals that selected services, service providers, and methods of procuring services shall be:
 - a. Made in accordance with applicable federal, state, Department, and VR laws, regulations, policies, and procedures;
 - b. Necessary in accordance with R6-4-206(A)(1) including to determine eligibility, assess rehabilitation needs, or achieve the Employment Outcome as identified in the most current approved IPE; and
 - c. Agreed upon by an Applicant or VR Client and VR.
 3. VR shall only authorize, purchase, and pay for a service contained in the most current approved IPE.
 4. Any service shall be authorized, purchased, and paid for in accordance with established procurement laws, regulations, methodologies, fee schedules, or contracts applicable to VR.
 5. VR shall not reimburse any entity or be held responsible for any expense that has not been approved and authorized, in writing, by VR Staff.
- D.** Economic need.
1. VR shall:
 - a. Require that an individual's economic need be determined if the individual requires VR's support for any service other than those listed in 34 CFR 361.54(b)(3) at the time of eligibility determination or the individual provides a current award letter verifying the receipt of Social Security benefits under Title II or Title XVI of 42 U.S.C. 7 (Social Security Act).
 - b. Calculate an individual's total monthly income using one of the following:
 - i. Household adjusted gross income as identified on the individual's most current state or United States federal income tax statement filed, or required to be filed, by the individual or, if the individual is claimed as a dependent by another person, the person who claimed the individual as a dependent, divided by 12.
 - ii. Current pay stubs or bank statements that show a direct deposit of income, or another form of financial documentation that shows the income of the individual or, if the individual is supported by another person, the person who supports the individual.
 - c. Subtract any disability related expenditures paid for by the VR Client and that are not otherwise reimbursed from the total income if the individual, or the person who supported or claimed the individual as a dependent:
 - i. Paid the expenditure;
 - ii. Provides evidence that these expenditures are not claimed deductions on income tax statements;
 - iii. Does not receive reimbursement for the expenses from any other public or private source; and
 - iv. Provides documentation that verifies the disability-related expenditures were paid during the tax year in which economic need is being determined.
 - d. Redetermine an individual's economic need status prior to the provision of PES when there is a change in the individual's finances, and the redetermination will benefit the VR Client.
 - e. Determine that an individual does not meet economic need if the individual does not provide the required documentation to support an economic need determination.
 2. VR shall not count an individual's past year's earnings toward computing economic need if the individual or the person who supported or claimed the individual as a dependent on the most recent state or federal tax return provides proof that the individual is no longer employed.
 3. An individual shall report any changes in the individual's finances to VR within 20 calendar days of the change.
- E.** Comparable Services and Benefits.
1. VR and an Applicant or VR Client shall explore, apply for, and use Comparable Services and Benefits, including accommodations and Auxiliary Aids and Services that are provided or paid for, in whole or in part, by other federal, state, or local public

- agencies, by health insurance, or by employee benefits prior to the provision of all VR services, except for the following services:
- a. Assessment for determining eligibility and VR needs;
 - b. Counseling and guidance, including information and support services to assist an individual in exercising Informed Choice;
 - c. Information and referral services to secure needed services from other agencies;
 - d. Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow along services;
 - e. Rehabilitation technology, including telecommunications, sensory, and other technological aids and devices; and
 - f. PES.
2. VR and Applicant or VR Client shall, at a minimum, explore, apply for, and use the following Comparable Services and Benefits, when available:
 - a. Medicaid/Medicare;
 - b. Pell grant or other available grants;
 - c. Any non-merit-based scholarship;
 - d. Private or other type of medical insurance;
 - e. Veterans Administration, for healthcare and rehabilitation center programming;
 - f. Worker's compensation, if a person has been injured on the job; and
 - g. State or federally funded child care.
 3. VR shall require that Comparable Services and Benefits be used if it meets an individual's disability or employment needs.
 - a. If it is known that Comparable Services and Benefits exist but is not available at the time needed to ensure the timely progress of an individual towards achieving an Employment Outcome, VR shall provide a service until Comparable Services and Benefits become available.
 - b. VR shall begin using Comparable Services and Benefits that become available at any time during VR service provision.
 - c. VR shall not provide a service when an individual refuses or fails to make a formal application for Comparable Services and Benefits to pay all or part of the cost of the service, or when an individual refuses to accept Comparable Services and Benefits that are available to an individual.

R6-4-207. Closure or Exit from VR

- A.** VR shall cease provision of VR services and close an individual's VR case when the individual:
1. Is not available to participate in services for 90 calendar days or longer. This includes an individual's stay in jail, prison, a nursing home, a hospital, or a residential treatment center; involvement in medical treatment; active military duty; religious service; or death;
 2. Chooses not to participate or continue engaging in VR services to obtain employment;
 3. Creates a barrier to beginning or continuing VR services necessary for employment, including declining to participate in VR services and Assessment activities for eligibility determination and service planning, failing to keep appointments for evaluations, counseling, or other services, and failing to make progress toward achievement of intermediate objectives and Employment Outcome as identified on the individual's IPE;
 4. Is determined to no longer meet eligibility criteria, at any time, for any of the following reasons:
 - a. The individual does not have a Physical or Mental Impairment;
 - b. The individual's Physical or Mental Impairment does not constitute a Substantial Impediment to Employment;
 - c. The individual does not require VR services to prepare for, enter into, engage in, or retain an Employment Outcome; or
 - d. The individual's disability is too significant to benefit from VR services in terms of achieving an Employment Outcome;
 5. Achieves Competitive Integrated Employment and maintains employment for 90 calendar days;
 6. Chooses to accept employment in a non-integrated or sheltered setting that provides compensation in accordance with 29 U.S.C. 8 et seq. (Fair Labor Standards Act);
 7. Requires long-term support to maintain employment after exiting VR, but no source of long-term support is available or expected to be available upon completion of VR services; or
 8. Cannot be located or has not responded to contact from VR.
- B.** An individual whose VR case has been closed shall be required to apply and have the individual's eligibility determined in accordance with R6-4-202 and R6-4-203 if future VR services are requested.

R6-4-208. Confidentiality and Release of Information

- A.** VR shall maintain and use all information collected from an individual in accordance with federal, state, and Department laws, regulations, policies, and procedures.
- B.** Release of information.
1. VR shall release requested Primary Source Information in a timely manner when requested in writing by an Applicant, VR Client, or Authorized Representative.
 - a. Medical, psychological, or other information that VR determines as having the potential to be harmful to an Applicant or VR Client shall only be provided to an Applicant, VR Client, or Authorized Representative through a third-party, chosen by or agreed to by the individual, who can aid the individual in appropriately interpreting the information being provided.
 - i. VR shall release Primary Source Information to protect the individual or others when the individual poses a threat to the individual's own safety or to the safety of others;
 - ii. VR shall release information to local or tribal law enforcement or protective services agencies, as required by law.
 2. VR shall only release an individual's information with the signed consent of the individual or the individual's legal representative except:
 - a. VR may release Primary Source Information and Secondary Source Information for purposes directly connected with the administration of the VR program. The information released shall not exceed the minimum information that is necessary to

- achieve the goals for which the information is being provided. Consent for this release is given by the individual when the VR Application Form is signed.
- b. VR may release Primary Source Information in response to investigations in connection with law enforcement, fraud, or abuse unless prohibited by federal or state laws or regulations, and in response to an order issued by a judge, magistrate, or other authorized judicial officer.
 - c. VR may release any document that communicates a VR decision in addition to any other document with consent of the VR Client.
 - d. VR may release Primary Source Information in accordance with 34 CFR 361.38(D).
- C.** An Applicant or VR Client who believes that information in the Applicant's or VR Client's record is inaccurate or misleading after review of requested information may request that the information be amended. If the information is not amended, the request for amendment shall be maintained in the Applicant's or VR Client's record.
- D.** VR shall only request information that is directly relevant to an individual's eligibility, rehabilitation needs, and the success of the individual's rehabilitation program.

R6-4-209. Overview of Appeals

A. Overview of Appeals.

1. An Applicant or VR Client may Appeal a decision made by VR that affects the provision of VR services.
2. VR shall make the following Appeal resolution options available:
 - a. Informal review;
 - b. Mediation; or
 - c. Hearing.
3. VR shall provide an Applicant or VR Client with a notice of Appeal rights and Client Assistance Program information when:
 - a. An individual applies for VR services;
 - b. VR makes a decision about eligibility for VR;
 - c. VR makes a decision regarding a VR Client's placement into an OOS Priority Category;
 - d. VR develops an IPE with the VR Client; and
 - e. At any time that VR makes a decision that affects the provision of VR services and intends to reduce, suspend, or terminate planned services or goods.
4. An Applicant or VR Client may request case record documents in accordance with R6-4-208(B)(2) to use during the Appeal process.
5. An Applicant or VR Client may be accompanied and represented by an Authorized Representative during the Appeal process and shall be notified of the availability of the Client Assistance Program. All expenses incurred for such representation, including legal fees, shall be the responsibility of the Applicant or VR Client.
6. VR shall not suspend, reduce, or terminate VR services being provided to an individual, including evaluation and Assessment services and IPE development, pending a resolution of an Appeal unless:
 - a. The Appellant requests suspension, reduction, or termination of services; or
 - b. VR has evidence that the services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on part of the individual.
7. The RSA Ombudsman or designee shall receive all Appeal requests and route the Appeal requests to the appropriate authority for disposition.

B. Requests for Appeal: form; time limits; timeliness.

1. An Applicant or VR Client shall have 20 calendar days from the mailing or email date of a written decision letter from VR to submit a written request for Appeal to VR. VR shall accept a formal written request for an Appeal via mail, email, or fax:
2. An Applicant or VR Client shall submit a written request for an Appeal using:
 - a. A VR Appeal request form; or
 - b. Any other written communication that includes:
 - i. A description of the specific VR decision being appealed;
 - ii. The Appellant's contact information and signature;
 - iii. The date; and
 - iv. An indication of whether the Appellant is willing to resolve the issue through an informal review, Mediation, or Hearing. If the Appellant chooses only a Hearing, the Appellant shall indicate that the Appellant is declining all other options for resolution in the written request. VR shall deem failure to indicate whether the Appellant is willing to resolve the issue through an informal review or Mediation to be election of a Hearing only.

R6-4-210. Appeal Resolution Options

A. Informal Review

1. VR is responsible for resolving an informal review request.
2. The RSA Ombudsman shall notify the supervisor of the VR Staff who made the decision in dispute that an informal review has been requested within five calendar days of receipt of the informal review request.
3. The supervisor of the VR Staff who made the decision in dispute shall:
 - a. Contact the Appellant to obtain further information about the issue and reason for the request for informal review;
 - b. Conduct an informal review of the decision in dispute by reviewing the issue, information provided by the Appellant, case record documentation, and applicable laws, regulations, and policies to determine how to resolve the issue in dispute;
 - c. Notify the Appellant in writing of the informal review decision, notification of Appeal rights, and Client Assistance Program information within 20 calendar days from the date the request for Appeal was received by the RSA Ombudsman; and
 - d. Provide the RSA Ombudsman with a copy of the informal review decision letter.
4. The informal review decision shall be a written, comprehensive statement by the supervisor that includes:

- a. A statement of the issue involved;
- b. A clear and complete statement of fact as supported by evidence presented at the informal review;
- c. A reference to all laws, regulations, and policies on which the decision is based;
- d. A concise statement of the conclusion drawn, and the basis for such conclusions; and
- e. A clear statement of the action to be taken to implement the decision.

5. The Appellant shall have 20 calendar days from the date of the written decision letter to request a Mediation or Hearing.

B. Mediation

1. Participation in Mediation is voluntary for both the Appellant and VR.
2. VR is responsible for resolving a Mediation request in conjunction with the Arizona State Attorney General's Office, Civil Rights Division.
3. The RSA Ombudsman shall contact the Arizona State Attorney General's Office, Civil Rights Division to request a Mediation with a Qualified and Impartial Mediator.
4. The RSA Ombudsman shall contact all Parties involved, including the Arizona State Attorney General's Office, Civil Rights Division, VR Staff who made the decision being appealed and the VR Staff's supervisor, Appellant, and Authorized Representative to schedule an appointment to conduct Mediation.
 - a. A VR representative with the authority to approve and agree to the outcome of Mediation shall be present at all Mediations.
 - b. Discussions that occur during the Mediation process shall be confidential and shall not be used as evidence in any subsequent Hearing or civil proceeding.
5. An Appellant may choose to voluntarily withdraw the request for Mediation if a resolution is obtained prior to the date of the Mediation. The Appellant shall contact the RSA Ombudsman to voluntarily withdraw the request for Mediation.
6. If Mediation results in an agreement that resolves the issues, the Parties shall document the agreement in writing, sign the document, and all Parties shall receive a copy of the signed agreement.
7. If Mediation does not result in an agreement or if the Appellant, without notice, fails to appear at a scheduled Mediation, the Qualified and Impartial Mediator shall close the Mediation request and submit a notice to the Appellant and VR that the Mediation was closed.
 - a. The Appellant may contact the RSA Ombudsman or the Qualified and Impartial Mediator to request to reschedule the Mediation within 20 calendar days of the date of the originally scheduled Mediation; or
 - b. The Appellant may contact the RSA Ombudsman or the Office of Appeals to request within 20 calendar days of the date of the originally scheduled Mediation to schedule a Hearing.
8. If an Appellant does not request to reschedule a Mediation or request to schedule a Hearing within 20 calendar days after an agreement is not reached in Mediation or failing to appear at a scheduled Mediation, the Qualified and Impartial Mediator shall notify VR indicating the Mediation has been closed.

C. Hearing

1. General provisions.
 - a. The Hearing Officer shall rely on applicable federal and state laws to conduct the Hearing within 60 calendar days of the date the Office of Appeals received the Appeal and review and resolve the issue in dispute. These rules shall be interpreted and administered to secure the just, speedy, and intended purpose of VR.
 - b. Unless precluded by another provision of law, a person may waive any right conferred on that person or group by this Article.
2. Withdrawal of Hearing.
 - a. An Appellant may withdraw an Appeal by submitting a written request to withdraw to the RSA Ombudsman or the Office of Appeals at any time before the Hearing Officer issues a decision.
 - b. The Office of Appeals shall accept a withdrawal and dismiss the Appeal upon receipt of a request to withdraw an Appeal made in the manner provided in R6-4-210(C)(8)(a) only if the Hearing Officer accepts the withdrawal and finds that the withdrawal has been voluntarily and knowingly requested.
 - c. Withdrawal of an Appeal is effective as soon as the withdrawal is processed by the Office of Appeals, but no later than 10 calendar days after receipt of the withdrawal.
3. Effect of the decision.
 - a. The Hearing Officer shall issue a Hearing decision within 30 calendar days of the completion of the Hearing.
 - b. If the Hearing Officer issues a decision that Reverses VR's decision, VR shall not take the action.
 - c. If the Hearing Officer Remands the case to VR, the Remand shall include instructions from the Hearing Officer. VR shall comply with the instructions of the Hearing Officer.
4. Review of decision by the Director.
 - a. If either the RSA Administrator or Appellant disagrees with the decision of the Hearing Officer, either Party may file a request for review of the Hearing Officer's decision by the Director by submitting a written request to the Office of Appeals within 20 calendar days of the mailing date of the Hearing Officer's decision.
 - b. The written request for review of a Hearing Officer's decision shall contain the Party's name, contact information, and a statement regarding the legal bases for the review.
 - c. The Office of Appeals shall notify all involved Parties within five calendar days of receipt that a request for review of the Hearing Officer's decision has been filed.
 - d. If an Appellant or RSA Administrator files a request for review of the Hearing Officer's decision, the other Party may submit a written response to the request for review of the Hearing decision to the Office of Appeals.
 - e. The Director shall, within 30 calendar days of receipt of the request for review of the Hearing Officer's decision:
 - i. Overturn the Hearing Officer's decision, or any part of the decision, only when the Director concludes that the decision of the Hearing Officer, based on Clear and Convincing Evidence, is erroneous based on the approved VR services por-

- tion of the State Plan; 29 U.S.C. 723; 29 U.S.C. 721(a); federal or state regulations; and policies that are consistent with federal and state requirements and request a new Hearing.
- ii. Affirm the Hearing Officer's decision; or
 - iii. Issue a written decision that contains a modified finding and the grounds upon which the decision is based and shall be considered the final decision of the Department.
- f. The Department shall provide a copy of the decision that includes an explanation of a Party's right for judicial review of the decision in accordance with 34 CFR 361.57(i) to each Party.
 - g. The Party requesting a review of the Hearing Officer's decision may voluntarily withdraw the request for review at any time before the Director issues a decision by making a request by telephone or in writing to the RSA Ombudsman or Office of Appeals.

ARTICLE 3. BUSINESS ENTERPRISE PROGRAM

R6-4-301. Definitions and Location of Definitions

In this Article the following definitions apply unless the context otherwise requires:

1. "Abandoned facility" means a business facility where a BEP operator has failed to open the facility without good cause for 24 hours.
2. "Agreement for operation of a vending facility" or "operator's agreement" means the written contract between the Department of Economic Security and a business enterprise program operator that regulates the terms and conditions under which the business enterprise shall be managed.
3. "Arizona Participating Operators Committee" or "APOC" means a fully representative committee of blind operators elected biennially by their peers which functions as an integral part of the Business Enterprise Program having active participation in major BEP administrative decisions and policy and program development decisions affecting the overall administration of the state's vending facility program.
4. "Business Enterprise Program" or "BEP" means an organizational unit of the Rehabilitation Services Administration within the Department of Economic Security which is the state licensing agency that provides opportunities for legally blind persons to operate merchandising business facilities in public and other property.
5. "Business Enterprise Program operator" or "BEP operator" means a licensee who enters into an operator's agreement with the BEP to manage and operate a business facility.
6. "Business facility" means a particular place of merchandising identified by the BEP which provides an opportunity to operate a vending facility.
7. "Candidate" means a legally blind client receiving vocational rehabilitation services who is referred to the BEP by a vocational rehabilitation counselor for training and placement.
8. "Certified trainee" means a legally blind client of the Vocational Rehabilitation Program who has successfully completed training and has been certified by the BEP.
9. "Department" means the Arizona Department of Economic Security.
10. "Displaced operator" means a licensee who has operated a business facility in Arizona under the provisions of this Article and is not currently assigned to a business facility as a result of a facility or building closure or medical leave.
11. "Grantor" means the agency that grants a permit to, or enters into an agreement with, the BEP to provide a satisfactory site for the operation of a business facility.
12. "Guaranteed fair minimum of return" means the prevailing federal minimum wage multiplied by a 40-hour work week.
13. "Initial probation" means the first six months after an operator assumes management of his first business facility or a higher level business facility during which time the operator's performance is evaluated for permanent status, termination or performance probation.
14. "Legally blind person" means a person who, after examination by an ophthalmologist, has been determined to have no vision or acuity or has a central visual acuity of 20/200 or less in the better eye, with the best correction by single magnification, or who has a field defect in which the peripheral field has been contracted to such extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees.
15. "Licensee" means a legally blind person who has been licensed by the Department to operate a business facility.
16. "Net proceeds" means the amount remaining after the deduction of business expenses from all income accruing to a BEP operator from the operation of a vending facility.
17. "Performance probation" means a period of time not exceeding six months during which a business facility operator who is not on initial probation shall correct documented, unacceptable performance or deficiencies upon written notice by the BEP.
18. "Rehabilitation Services Administration" or "RSA" means the organizational unit within the Department which is responsible for the administration of the Vocational Rehabilitation Program for the Blind and Visually Impaired.
19. "Temporary Business Enterprise Program operator" or "temporary operator" means an individual who contracts with the Department to operate a business facility for a specified period of time and who may or may not be a legally blind person.
20. "Trainee" means a candidate who has been accepted into and is receiving training from the BEP prior to placement and licensure.
21. "Upward mobility training" means additional training that enhances a BEP operator's work opportunities.
22. "Vending facility" means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees, and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, food, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by state law and conducted by an agency of a state within such state.
23. "Vocational rehabilitation counselor" or "counselor" means the person in the Vocational Rehabilitation Program (VR) who determines the appropriateness of its clients for referral to the BEP.

A. Location of Definitions. Definitions applicable to Article 3 are found in the following:

<u>Definition</u>	<u>Section or Citation</u>
"Abandoned Facility"	R6-4-301(B)
"All-Operators Meeting"	R6-4-301(B)
"Appeal"	R6-4-101(B)
"APOC"	R6-4-301(B)
"BEP Manager"	R6-4-301(B)
"BEP Operator"	R6-4-301(B)
"Business Enterprise Program" or "BEP"	R6-4-101(B)
"Business Facility"	R6-4-101(B)
"Candidate"	R6-4-301(B)
"Committee"	R6-4-301(B)
"Department"	A.R.S. § 41-1951
"Director"	R6-4-101(A)
"Displaced Operator"	R6-4-301(B)
"Good Cause"	R6-4-301(B)
"Grantor"	R6-4-301(B)
"Guaranteed Fair Minimum of Return"	R6-4-301(B)
"Hearing"	R6-4-101(B)
"Hearing Officer"	R6-4-101(A)
"Initial Probation"	R6-4-301(B)
"Legally Blind"	R6-4-301(B)
"Licensee"	R6-4-301(B)
"Net Proceeds"	R6-4-301(B)
"Operator's Agreement"	R6-4-301(B)
"Performance Probation"	R6-4-301(B)
"Rehabilitation Services Administration" or "RSA"	R6-4-101(B)
"RSA Administrator"	R6-4-101(B)
"Satisfactory Site"	34 CFR 395.1(q)
"SLA"	R6-4-301(B)
"Temporary BEP Operator"	R6-4-301(B)
"Trainee"	R6-4-301(B)
"Upward Mobility Training"	R6-4-301(B)
"Vending Facility"	34 CFR 395.1
"Vocational Rehabilitation"	R6-4-101(B)
"VR"	R6-4-101(B)
"VR Client"	R6-4-101(B)
"VR Staff"	R6-4-101(B)

B. The following definitions apply to Article 3 of this Chapter:

1. "Abandoned Facility" means a Business Facility that a BEP Operator has failed to open without Good Cause for 24 hours.
2. "All-Operators Meeting" means an APOC meeting for which attendance is mandatory for all Trainees, Licensees, and BEP Operators.
3. "APOC" means the Arizona Participating Operators Committee, a fully representative committee of BEP Operators elected biennially by the BEP Operators' peers that functions as an integral part of the BEP having active participation in major BEP administrative decisions and policy and program development decisions affecting the overall administration of the State's BEP.
4. "BEP Manager" means the DES employee who oversees BEP under the direction of the RSA Administrator.
5. "BEP Operator" means a Licensee who enters into an Operator's Agreement with the BEP to manage and operate a Business Facility.
6. "Candidate" means an individual who is Legally Blind and is receiving VR services who is referred to the BEP by VR Staff for training and placement.
7. "Committee" means an ad hoc group of individuals assembled to make a decision regarding various aspects of placement of a BEP Operator in a Vending Facility. A Committee consists of:
 - a. Two voting BEP staff members who are selected by the BEP Manager;
 - b. Two voting Operators who are appointed by the APOC chairperson; and
 - c. The BEP Manager, who acts as the chairperson of the committee and only votes in the event of a tie.
8. "Displaced Operator" means a Licensee who has operated a Business Facility in Arizona under the provisions of this Article and is not currently assigned to a Business Facility as a result of a Business Facility or building closure or medical leave.
9. "Good Cause" means temporary illness, a family crisis, or a Business Facility or Vending Facility that is inaccessible by public transportation that causes the Trainee, Licensee, or BEP Operator to be unable to fulfill an obligation under this Article.
10. "Grantor" means the public or private entity that grants a permit to, or enters into an agreement with, the BEP to provide a Satisfactory Site for the operation of a Business Facility.
11. "Guaranteed Fair Minimum of Return" means the prevailing federal minimum wage multiplied by a 40-hour work week.
12. "Initial Probation" means the first six months after a BEP Operator assumes management of the BEP Operator's first Business Facility, during which time the BEP Operator's performance is evaluated for permanent status, termination or Performance Probation.
13. "Legally Blind" means an individual's determination by an ophthalmologist that indicates the individual has:

- a. No vision or acuity;
- b. Central vision acuity of 20/200 or less in the better eye, with the best correction by single magnification; or
- c. A field defect in which the peripheral field has been contracted to such an extent that the widest diameter of the visual field subtends an angular distance no greater than 20 degrees.
- 14. "Licensee" means an individual who is Legally Blind and has been licensed by the Department to operate a Business Facility.
- 15. "Net Proceeds" means the amount remaining after the deduction of business expenses from all income accruing to a BEP Operator from the operation of a Vending Facility.
- 16. "Operator's Agreement" means a written contract between the Department and a BEP Operator that regulates the terms and conditions under which a Business Facility shall be managed.
- 17. "Performance Probation" means a period of time not exceeding six months during which a BEP Operator who is not on Initial Probation shall correct documented, unacceptable performance or deficiencies upon written notice by the BEP.
- 18. "SLA" means the same as "state licensing agency" under 34 CFR 395.1(v). RSA is the SLA for Arizona.
- 19. "Temporary BEP Operator" means an individual who contracts with the Department to operate a Business Facility for a specified period of time and who may or may not be Legally Blind.
- 20. "Trainee" means a Candidate who has been accepted into and is receiving training from the BEP prior to placement and licensure.
- 21. "Upward Mobility Training" means additional training that enhances a BEP Operator's work opportunities.

R6-4-302. ~~Participating business facilities~~ Business Facilities

- A.** ~~The Business Enterprise Program (BEP) shall conduct surveys of public or other properties upon written request of the owner or management or as determined necessary by the Department to determine merchandising opportunities for licensees. The survey shall include the following information:~~
 - 1. ~~Identification of location and nature of site and contact person.~~
 - 2. ~~Demographics of site to include building population, work hours, nature of work, salary range, and locally, other selling locations, existing merchandise and vending machines.~~
 - 3. ~~The proposed business recommended by BEP, including suggested merchandise, number of employees, anticipated volume, hours of operation and current purchasing patterns.~~
- B.** ~~The BEP shall, following consultation with APOC, determine through these surveys if a public or other property meets the requirements for a satisfactory site for a merchandising business.~~
- C.** ~~If a surveyed property meets the requirements as a satisfactory site for a merchandising business, a written agreement shall be entered into between the Department and the grantor.~~
- D.** ~~The BEP shall provide each business facility with suitable equipment, adequate initial stock, utensils, and cash necessary for the establishment and operation of the facility. The operator shall return the equipment, stock, utensils and cash upon surrender of the facility.~~
- E.** ~~Unless otherwise agreed, the BEP shall maintain all business facility equipment in good repair and shall replace worn out or obsolete equipment to assure the continued operation of the facility.~~
- F.** ~~Title to the BEP purchased equipment and stock shall remain with the BEP until disposed of in accordance with law. When title to the equipment and stock is vested in the BEP operator, procedures and responsibility for providing the necessary maintenance or replacement shall be prescribed by the BEP in the operator's agreement.~~
- A.** The BEP shall conduct a survey or surveys of public or other properties upon written request of the owner or management or as determined necessary by the Department to determine merchandising opportunities for Licensees. A survey shall include the following information:
 - 1. Identification of location, nature of site, and contact person;
 - 2. Demographics of site to include building population, work hours, nature of work, salary range, and other local selling locations, existing merchandise, and vending machines;
 - 3. The proposed business recommended by the BEP, including suggested merchandise, number of employees, anticipated volume, hours of operation, and current purchasing patterns.
- B.** The BEP shall determine if a public or other property meets the requirements for a Satisfactory Site for a merchandising business through a survey conducted by the BEP following consultation with the APOC.
- C.** If a surveyed property meets the requirements as a Satisfactory Site for a merchandising business, a written agreement shall be entered into between the Department and the Grantor.
- D.** The BEP shall provide each Business Facility with suitable equipment, adequate initial stock, utensils, and cash necessary for the establishment and operation of the Business Facility. The BEP Operator shall return all equipment, stock, utensils and cash upon surrender of the Business Facility or shall reimburse the BEP for the value of any missing items.
- E.** Unless otherwise agreed, the BEP shall maintain all Business Facility equipment to ensure it is in good repair and shall replace worn-out or obsolete equipment to assure the continued operation of the Business Facility.
- F.** All titles to the BEP-purchased equipment and stock shall remain with the BEP until the equipment or stock is disposed of in accordance with applicable federal or state law. When the title to the equipment or stock is vested in the BEP Operator, procedures and responsibility for providing the necessary maintenance or replacement shall be prescribed by the BEP in the Operator's Agreement.

R6-4-303. ~~Referral for the business enterprise program; qualifications of candidate~~ Referral to the Business Enterprise Program: Qualifications of Candidate

- A.** ~~A client of the Department's Vocational Rehabilitation Program who expresses interest in participating in the BEP program shall be referred to the BEP by a vocational rehabilitation counselor when it is determined that referral is appropriate following medical and vocational assessments, consultation with the client, and completion of an application packet.~~
- B.** As a part of referral each client shall complete an application on a form prescribed by the BEP which shall include the following:
 - 1. Identifying information including name, address, telephone number and date of birth.

2. Medical information including visual acuity and diagnosis.
 3. Education and work experience.
 4. Mobility and communication functioning levels.
- C.** The counselor shall attach the following to the application if applicable:
1. Vocational assessments.
 2. Psychological evaluation.
- D.** The counselor shall also determine and document that the client is
1. Legally blind;
 2. At least 18 years old;
 3. A citizen of the United States;
 4. Able to function independently in business to the degree that the client's needs have been addressed by VR;
 5. Medically stable with all necessary physical restoration services completed.
- E.** BEP shall review application packets for completeness and shall return incomplete packets to VR.
- F.** Completed packets shall be referred to the screening committee.
- A.** A VR Client who expresses interest in participating in the BEP shall be referred to the BEP by VR Staff when it is determined that a referral is appropriate following a medical or vocational evaluation, consultation with the VR Client, and completion of an application packet.
- B.** As part of a referral, each VR Client shall complete an application on a form prescribed by the BEP, which shall include the VR Client's:
1. Identifying information including name, address, telephone number, and date of birth.;
 2. Medical information including visual acuity and diagnosis.;
 3. Education and work experience.; and
 4. Mobility and communication functioning levels.
- C.** The VR Staff shall attach any available Assessment or psychological evaluations the VR Client has completed.
- D.** The VR Staff shall also determine and document that the VR Client is:
1. Legally Blind;
 2. At least 18 years old;
 3. A citizen of the United States;
 4. Able to function independently in business to the degree that the VR Client's needs have been addressed by VR; and
 5. Medically stable with all necessary physical restoration services completed.
- E.** The BEP shall review an application packet for completeness and shall return an incomplete packet to VR to be properly completed and resubmitted.
- F.** The BEP shall refer a complete packet to a screening Committee for consideration of acceptance into the BEP training program, as described at R6-4-304. The referring VR Staff also serves on the screening Committee meeting but does not vote.

R6-4-304. Screening for ~~acceptance into initial training~~ Acceptance into Initial Training

- A.** The screening of a candidate shall be conducted by a committee which shall consist of:
1. Two voting BEP staff members.
 2. Two voting BEP operators appointed by the chairman of the Arizona Participating Operators' Committee (APOC).
 3. The BEP supervisor shall act as the chairman of the committee. He shall vote only in the event of a tie. The committee chairman shall consult with the chairman of APOC before casting his vote.
 4. The referring vocational rehabilitation counselor, who shall have no vote.
- B.** The screening shall consist of a review of the candidate's case history and an interview with the candidate relating to voluntary participation in the BEP program and the candidate's job qualifications. The committee shall then vote to accept into training, or reject the candidate and return to VR for further services as appropriate to assist the candidate in meeting the program criteria.
- C.** The determination of the screening committee shall be provided to the candidate in writing. In the event of rejection the determination shall contain the reasons for the determination, recommendations for remedying any deficiencies, and provide notice of the right to appeal.
- A.** The screening of a Candidate shall be conducted by a screening Committee.
- B.** The screening shall consist of a review of the Candidate's case history and an interview with the Candidate relating to voluntary participation in the BEP and the Candidate's job qualifications. The screening Committee shall then vote to accept the Candidate into training, or reject and return the Candidate to VR for further services as appropriate to assist the Candidate in meeting the program criteria.
- C.** The determination of the screening Committee shall be provided to the Candidate in writing. In the event of rejection the determination shall contain the reasons for the determination, recommendations to remedy any deficiencies, and provide notice of the right to Appeal.

R6-4-305. Initial training Training

- A.** Once accepted into training, a candidate shall be trained for one or more of the three levels of business facility operations, beginning with level one. The course content, objectives and length of training shall be developed for each level by the BEP with the active participation of APOC. Only upon satisfactory completion of the level and granting of a certificate for that level shall the trainee be permitted to proceed to the next higher level.
- B.** At level one, training shall cover business facilities, such as snack bars, vending banks, and gift shops at which food is not prepared, and shall orient the trainee to basic business and merchandising principles, the parameters of the BEP program, and the applicable provisions of federal regulations and state law. On the job training shall also be provided in existing business facilities of this type.
- C.** At level two, training shall cover business facilities such as coffee shops at which limited food preparation occurs. On the job training shall be provided at appropriate, existing, level two facilities.

- D.** At level three, training shall cover cafeterias providing a variety of prepared foods and beverages. On the job training shall be provided at appropriate, existing, level three facilities.
- E.** With respect to completion of each level:
1. If a trainee misses five days or more of training without good cause whether consecutive or not, he shall be terminated. Good cause shall mean temporary illness of the trainee or family crisis.
 2. If, during training or following completion of any level of training, it becomes apparent that the trainee lacks sufficient skills, knowledge, experience, health or other abilities, the BEP shall review the case, consult with the counselor, APOC, and the trainee, and either:
 - a. Revise the training plan as needed; or
 - b. Terminate the training and return the trainee to VR for further services as appropriate.
 3. A trainee who satisfactorily completes a level of training shall be certified by the BEP. The term of the certificate shall be indefinite except as addressed in subsection (G).
- F.** A determination to terminate shall be provided to the trainee in writing and shall state the reasons for the determination, recommendations for remedying any deficiencies, and notice of the right to appeal.
- G.** Any trainee who is not placed in a business facility within 12 months of the date of certification shall receive appropriate training, following an evaluation of proficiency, in order to maintain certification.
- H.** Operators licensed as of the date of the adoption of these rules shall be exempted from the initial training required for their current level of facility operation.
- A.** Once accepted into training, a Candidate shall be trained for Business Facility operations. The course content, objectives, and length of training shall be developed by the BEP with active participation of the APOC. Training shall cover:
1. Business Facilities, such as snack bars, vending banks, and gift shops, at which food is not prepared, and shall orient the Trainee to basic business and merchandising principles, the parameters of the BEP, and the applicable provisions of federal regulations and state law. On-the-job training shall also be provided in existing Business Facilities of this type.
 2. Business Facilities, such as coffee shops at which limited food preparation occurs. On-the-job training shall be provided at appropriate existing facilities.
 3. Cafeterias providing a variety of prepared foods and beverages. On-the-job training shall be provided at appropriate, existing facilities.
- B.** With respect to the duration of training:
1. If a Trainee misses five days or more of training without Good Cause, whether consecutive or not, the BEP shall terminate the Trainee from the training and return the Trainee to VR for further services, as appropriate.
 2. If it becomes apparent during training or following completion of training that a Trainee lacks sufficient skills, knowledge, experience, health, or other abilities, the BEP shall review the case, consult with the VR Staff, the APOC, and the Trainee, and either:
 - a. Revise the training plan, as needed; or
 - b. Terminate the training and return the Trainee to VR for further services, as appropriate.
 3. A Trainee who satisfactorily completes training and is approved by the Committee as discussed in R6-4-311 becomes a Licensee.
- C.** A determination to terminate training shall be provided to the Trainee in writing and shall state the reasons for the determination, recommendations to remedy any deficiencies, and provide notice of the right to Appeal.
- D.** Any Licensee who is not placed in a Business Facility within 12 months of the date of licensure shall receive appropriate training, following an evaluation of proficiency.
- E.** A BEP Operator who is licensed as of the date of the adoption of these rules shall be exempt from the initial training required.

R6-4-306. Remedial training-Training

- A.** ~~When the BEP determines that remedial training is required to correct identified problems or deficiencies to assist a BEP operator, it shall develop a specialized program with the active participation of APOC to address those concerns. The BEP operator may be placed on performance probation pursuant to R6-4-315 pending satisfactory completion of the remedial training.~~
- B.** ~~Any BEP operator who has surrendered his license for a period exceeding 12 months and wishes to return to the BEP shall be evaluated by the BEP, in consultation with APOC, to determine the level for which he shall be certified or any remedial training needed.~~
- A.** When the BEP determines that remedial training is required to correct identified problems or deficiencies to assist a BEP Operator, it shall develop a specialized program with the active participation of the APOC to address those concerns. The BEP Operator may be placed on Performance Probation in accordance with R6-4-315 pending satisfactory completion of the remedial training.
- B.** Any former BEP Operator who has surrendered a license for a period exceeding 12 months and wishes to return to the BEP shall be evaluated by the BEP, in consultation with the APOC, to determine if any remedial training is necessary prior to reinstatement of the license.

R6-4-307. Upward mobility training-Mobility Training

- A.** ~~At least once a year the BEP shall offer special training programs to BEP operators which shall be developed with the active participation of APOC and shall include education in new program developments or business and merchandising techniques and additional training to improve work performance.~~
- B.** BEP shall offer training to operators for promotion opportunities pursuant to R6-4-305(A). At least once per calendar year the BEP shall offer special training programs to BEP Operators that shall be developed with the active participation of APOC and include education in new program developments or business and merchandising techniques and additional training to improve work performance.

R6-4-308. Qualifications for placement in a business facility-Placement in a Business Facility

- A.** ~~When a business facility becomes available the BEP shall:~~

1. Notify each BEP operator and certified trainee in writing of the opportunity to request placement in a location by filing an application. The notice shall be mailed at least 15 calendar days prior to the announced closure of the filing period;
 2. Accept any timely filed written application which contains a statement of interest in placement in the facility.
- B.** A qualifications committee shall consider each applicant's record on file with the BEP, together with the application and any supporting documents. The committee shall be comprised of:
1. Two voting BEP staff members.
 2. Two voting BEP operators appointed by the chairman of APOC.
 3. The BEP supervisor shall act as the chairman of the committee. He shall vote only in the event of a tie. The committee chairman shall consult with the chairman of APOC before casting his vote.
- C.** Qualifications of a BEP operator or a certified trainee for placement in a business facility shall be determined based upon:
1. For a BEP operator:
 - a. Compliance with the BEP operator's agreement and with the provisions of this Article.
 - b. The existence of no more than two substantiated customer complaints during the prior six month period. Only written and signed complaints shall be considered.
 - c. Maintenance of a level of inventory adequate for the location in which the operator is currently placed.
 - d. Degree of profitability of a facility under the operator's management.
 - e. Involvement of the operator in training and seminars.
 - f. Attendance at the last all operators meeting.
 2. For a certified trainee: relevant knowledge, skill, training, prior experience or education, and the performance of the individual during training.
- D.** The committee shall make its determination by majority vote within 30 calendar days from the closure of the filing period.
- E.** Each applicant shall be notified by the BEP within seven calendar days of the committee's determination. For those applicants found disqualified, the notification shall be in writing and shall include the reasons for the disqualification, and notice of the right to appeal.
- A.** When a Business Facility becomes available, the BEP shall:
1. Notify each Licensee in writing of the opportunity to request placement in a location by filing an application. The notice shall be sent at least 15 calendar days prior to the announced closure of the filing period; and
 2. Accept any written application that is submitted by the deadline indicated in the Business Facility announcement and contains a statement of interest in placement in the Business Facility.
- B.** A qualifications Committee shall determine whether a Licensee who has submitted an application is qualified for placement in the available Business Facility.
- C.** For each Licensee who has submitted an application, the Committee shall consider the Licensee's record on file with the BEP, the application, and any supporting documents. The Committee shall determine a Licensee's qualifications for placement in a Business Facility based upon:
1. For a BEP Operator:
 - a. Compliance with the Operator's Agreement and with the provisions of this Article.
 - b. The existence of no more than two substantiated customer complaints during the prior six-month period of which only written and signed complaints shall be considered.
 - c. Maintenance of a level of inventory adequate for the location in which the BEP Operator is currently placed.
 - d. Degree of profitability of a Business Facility under a BEP Operator's management.
 - e. Involvement of the BEP Operator in training and seminars.
 - f. Attendance at the last All-Operators Meeting.
 2. For any other Licensee:
 - a. Relevant knowledge, skill, training, prior experience or education; and
 - b. The performance of the individual during training.
- D.** The Committee shall make a determination of qualification for placement by majority vote within 30 calendar days from the closure of the filing period.
- E.** Each Licensee who has submitted an application shall be notified by the BEP within seven calendar days of the Committee's determination. For those Licensees found disqualified, the notification shall be in writing and shall include the reasons for the disqualification and notice of the right to Appeal.
- R6-4-309. Selection for ~~placement in a business facility~~ Placement in a Business Facility**
- A.** ~~Those BEP operators and certified trainees who qualify shall be considered for placement in a facility by a selection committee which shall consist of:~~
1. ~~Two voting BEP staff members.~~
 2. ~~Two voting BEP operators appointed by the chairman of the Arizona Participating Operators' Committee (APOC).~~
 3. ~~The BEP supervisor shall act as the chairman of the committee. He shall vote only in the event of a tie. The committee chairman shall consult with the chairman of APOC before casting his vote.~~
 4. ~~The grantor, who may attend the meeting but shall not vote.~~
- B.** ~~Selection shall be based upon the applicant's qualifications as well as upon an interview with each candidate on factors related to the work including demonstrated management skills, ability to handle increased responsibilities, and any past comparable work experience. In addition, the committee shall consider applications in the following order from the highest priority for placement to the lowest:~~
1. ~~Any displaced operator who managed a business facility at a comparable level.~~
 2. ~~Any BEP operator who is no longer on initial probation.~~
 3. ~~Any BEP operator who is on initial probation.~~
 4. ~~Any trainee certified for the level of the available facility.~~
- C.** ~~If no qualifying applicant can be recommended for placement, a temporary operator shall be placed by the BEP pursuant to R6-4-313.~~

- ~~D.~~ Applicants shall be notified of the decision by the BEP within seven calendar days of approval of the selection. Those applicants who have not been selected shall be notified in writing of the reasons for the rejection and notice of right to appeal.
- ~~E.~~ If the facility becomes available again within 30 calendar days of selection, or if the selected operator refuses the placement, the Supervisor of the BEP shall request another selection from the committee within the order of priority.
- A. The BEP Operators and other Licensees who qualify shall be considered for placement in a Business Facility by a selection Committee.
- B. A selection Committee shall interview each qualified Licensee on factors related to the work, including demonstrated management skills, ability to handle increased responsibilities, and any past comparable work experience and base a BEP Operator's placement in a Business Facility on the Licensee's qualifications and the outcome of the interview. In addition, the selection Committee shall consider applications in the following order from the highest priority for placement to the lowest:
 1. Any Displaced Operator who managed a Business Facility at a comparable level.
 2. Any BEP Operator who is no longer on Initial Probation.
 3. Any BEP Operator who is on Initial Probation.
 4. Any other Licensee.
- C. A Temporary BEP Operator shall be placed in a Business Facility by the BEP if a qualifying Licensee cannot be recommended for placement in accordance with R6-4-313.
- D. The BEP shall notify a qualifying Licensee of the BEP's decision within seven calendar days of approval of the selection for placement in a Business Facility.
- E. The BEP shall notify a Licensee who has not been selected for placement in a Business Facility in writing of the reason for the rejection and of the right to Appeal.
- F. If the Business Facility becomes available again within 30 calendar days of selection for placement in a Business Facility, or if the selected BEP Operator refuses the placement, the BEP supervisor shall request another selection from the Committee within the order of priority under R6-4-309(B).

R6-4-310. ~~Refusal of placement in a facility~~ Placement in a Business Facility

- ~~A.~~ Any BEP operator, certified trainee or displaced operator who applies and is selected for placement in a business facility and then refuses the placement without good cause shall not be considered for any new placement for 90 calendar days.
- ~~B.~~ For purposes of this Section good cause shall include temporary illness of the individual, family crisis, or a facility location that is inaccessible by public transportation. The BEP shall not consider a Licensee who applies and is selected for placement in a Business Facility and then refuses the placement without Good Cause for any new placement in a Business Facility for 90 calendar days.

R6-4-311. Licensure

- ~~A.~~ A BEP business facility shall be operated only by a licensed BEP operator with the exception of a temporary operator pursuant to R6-4-313.
- ~~B.~~ Once a person is selected for placement in a business facility, a license shall be issued to that person by the Department which shall remain in effect unless revoked or surrendered by the BEP operator. The license shall specify the name of the BEP operator, the level of the business facility for which the license is issued, issuance date, the signature of the authorized Department representative and contain a warning that the license shall not be transferred.
- A. A Business Facility shall be operated only by a licensed BEP Operator, with the exception of a Temporary BEP Operator, in accordance with R6-4-313.
- B. The review of a trainee who has completed the initial training will be conducted by a licensing Committee.
- C. The licensing Committee will review the trainee's participation in the initial training and all previous information obtained to determine if the trainee will be issued a license or referred to a screening Committee for additional training.
- D. Once a person becomes a Licensee, the Department shall issue a license to that person, which shall remain in effect unless revoked or surrendered by the BEP Operator in accordance with 34 CFR 395.7(b). The license shall specify the name of the BEP Operator, the issuance date, and the signature of the authorized Department representative, and contain a statement that the license cannot be transferred.

R6-4-312. ~~Operator's agreement~~ Agreement

~~A standard operator's agreement shall be developed by the BEP in active participation with APOC. A new standard operator's agreement shall not be adopted before APOC has an opportunity to present the proposed agreement to the operators for input at an all operators meeting, following which additional discussions between BEP and APOC shall be conducted if needed. A BEP facility shall be operated only by a person who has executed an agreement for operation of a business facility with the Department.~~

The BEP shall develop a standard Operator's Agreement with the active participation of the APOC. Changes to the standard Operator's Agreement shall not be adopted before the APOC has an opportunity to present the proposed changes to the Operator's Agreement to the Licensees for input at an All-Operators Meeting, following which additional discussions between the BEP and the APOC shall be conducted, if needed. A Business Facility shall be operated only by a person who has executed an Operator's Agreement for a Business Facility with the Department.

R6-4-313. ~~Temporary operator~~ Operator

- ~~A.~~ A temporary Business Enterprise Program operator shall be recruited for placement in a business facility by the BEP, after consultation with the chairman of APOC, for a six month period:
 - ~~1. When a facility is abandoned; or~~
 - ~~2. In the event no qualified legally blind person applies for assignment to a business facility; or~~
 - ~~3. In an emergency.~~
- ~~B.~~ The placement of a temporary operator may be extended on a monthly basis until such time as a qualified legally blind person is available.
- C. The BEP shall consider placement of a temporary operator in the following order from the highest priority to the lowest:

1. ~~A displaced operator who managed a business facility at a comparable level.~~
 2. ~~A certified trainee for a comparable level who is not currently operating a business facility.~~
 3. ~~An operator who is currently managing a business facility at a comparable level.~~
 4. ~~A displaced operator who managed a business facility at a lower level.~~
 5. ~~A certified trainee for a lower level who is not currently operating a business facility.~~
 6. ~~A vocational rehabilitation client who is a legally blind person.~~
 7. ~~A vocational rehabilitation client who is visually impaired.~~
 8. ~~A vocational rehabilitation client with a disability other than visual.~~
 9. ~~Any other person.~~
- A.** The BEP shall recruit a Temporary BEP Operator for placement in a Business Facility for a six-month period after consultation with the APOC chairperson:
1. In the event of an Abandoned Facility;
 2. In the event no qualified individual who is Legally Blind applies for assignment to a Business Facility; or
 3. In an emergency.
- B.** The BEP may extend a Temporary BEP Operator's placement in a Business Facility on a monthly basis until such time as a qualified individual who is Legally Blind is available.
- C.** The BEP shall consider placement of a Temporary BEP Operator in the following order from the highest priority to the lowest:
1. A Displaced Operator in good standing.
 2. Any other Licensee in good standing who is not currently managing a Business Facility.
 3. A BEP Operator in good standing who is currently managing a Business Facility.
 4. A subcontract through the SLA.

R6-4-314. Initial ~~probation~~-Probation

- A.** ~~A BEP operator who is placed in his first business facility or in a higher level business facility shall be placed on initial probation for six months to assure compliance with the operator's agreement, the provisions of this Article, and applicable law.~~
- B.** ~~During the probationary period, the BEP shall conduct unannounced onsite inspections at least twice monthly. Upon the inspector's arrival, the operator shall be notified.~~
- C.** ~~At the conclusion of each site inspection, a facility inspection report shall be completed which identifies the conditions found, any deficiencies requiring corrective action, and which contains a statement of the required standard and any recommendation to bring the operator into compliance. The inspection report shall be read to the operator who, after signing the report, shall receive a copy.~~
- D.** ~~At the end of the six-month period, the BEP, following consultation with APOC, shall notify the operator in writing of either satisfactory completion of probation, of placement on performance probation or termination of the operator's agreement.~~
- A.** A BEP Operator who is placed in the BEP Operator's first Business Facility shall be placed on Initial Probation for six months to assure compliance with the Operator's Agreement, the provisions of this Article, and applicable law.
- B.** The BEP shall conduct unannounced onsite inspections at least twice monthly during Initial Probation.
- C.** The BEP shall complete an inspection report at the conclusion of each site inspection and shall read the inspection report to the BEP Operator who, after signing the inspection report, shall receive a copy of the inspection report. The inspection report shall:
1. Identify the conditions found during the site inspection;
 2. Identify any deficiencies requiring corrective action; and
 3. Contain a statement of the required standard and any recommendation to bring the BEP Operator into compliance.
- D.** The BEP, following consultation with the APOC, shall notify the BEP Operator in writing of the BEP Operator's satisfactory completion, placement on Performance Probation, or the BEP's intent to terminate the Operator's Agreement at the end of the of Initial Probation in accordance with R6-4-318.

R6-4-315. Performance ~~probation~~-Probation

- A.** ~~When the operation of a business facility is adversely affected by the deteriorated performance of the BEP operator, the operator shall be placed on performance probation by the BEP, following prior notification to the APOC chairman, for no longer than six months.~~
- B.** ~~Deficiencies shall be identified as follows:~~
1. ~~By a substantiated, written and signed complaint from any member of the public which has been filed with the Department; or~~
 2. ~~By the BEP during onsite inspections.~~
- C.** ~~An operator shall be given written notice of placement on performance probation by certified mail, return receipt requested, or in person. The notice shall state the grounds for the action and shall refer to any applicable agreement sections or legal provisions. It shall identify the corrective action to be taken, the length of the probation, the consequences of failure to timely complete the corrective action, and notice of right to appeal.~~
- D.** ~~At the end of the performance probation period:~~
1. ~~If the required corrective actions have been taken by the BEP operator, written notice of satisfactory completion and lifting of probation shall be immediately issued by the Department;~~
 2. ~~If the required corrective actions have not been taken by the BEP operator, the Department, following notification to the APOC chairman, shall terminate the operator's agreement.~~
- A.** The BEP shall, following prior notification to the APOC chairperson, place a BEP Operator on Performance Probation for no longer than six months when the operation of a Business Facility is adversely affected by the deteriorated performance of a BEP Operator.
- B.** Deficiencies shall be identified by:
1. A substantiated, written and signed complaint from any member of the public that has been filed with the Department; or
 2. The BEP during an onsite inspection.
- C.** The BEP shall provide a written notice to a BEP Operator who is placed on Performance Probation. The notice shall:
1. State the grounds for the action and shall refer to any applicable agreement sections or legal provisions; and

2. Identify the corrective action to be taken, the length of the Performance Probation, the consequences of failure to timely complete the corrective action, and notice of right to Appeal.

D. At the end of the Performance Probation, the Department shall either:

1. Issue a written notice of satisfactory completion and termination of the Performance Probation to the BEP Operator if the BEP Operator takes the required corrective action; or
2. Terminate the Operator's Agreement after notifying the APOC chairperson if the BEP Operator fails to take the required corrective action in accordance with R6-4-318.

R6-4-316. ~~Continuing inspections of business facilities~~ Inspections of Business Facilities

~~The Department shall conduct inspections for the health, safety and welfare of the public, with or without notice, throughout the existence of an operator's agreement, and shall take any appropriate action to assure the operator's compliance with the operator's agreement, this Article, and applicable law.~~

The Department shall conduct an inspection of a Business Facility for the health, safety and welfare of the public, with or without notice, throughout the existence of an Operator's Agreement, and shall take any appropriate action to assure the BEP Operator's compliance with the Operator's Agreement, this Article, and applicable law.

R6-4-317. ~~Exchange of business facilities prohibited~~ Business Facilities Prohibited

~~There shall be no exchange of business facilities between BEP operators. Any placement in a facility shall be made pursuant to this Article.~~

There shall be no exchange of Business Facilities between BEP Operators. Any placement of a BEP Operator in a Business Facility shall be made pursuant to this Article.

R6-4-318. ~~Termination of operator's agreement~~ an Operator's Agreement

~~A.~~ An agreement for operation of a business facility shall be terminated:

1. Under the terms of the agreement;
2. By failure to meet conditions of initial or performance probation;
3. Upon revocation or surrender of a license;
4. Upon termination of the grantor agreement;
5. When the BEP operator abandons the facility.

~~B.~~ The BEP operator shall be given written notice by the BEP, following notification to the APOC chairman, of termination of the operator's agreement. The notice shall be by certified mail, return receipt requested, or in person and shall state the grounds for the action, refer to any applicable provision of law or agreement, and advise the operator of the right to appeal.

~~C.~~ Upon termination of an operator's agreement, the BEP shall reconcile all records and inventoried items for which the operator was responsible. The report of the reconciliation shall be transmitted in writing to the BEP operator or his estate within 90 calendar days from termination of the operator's agreement and shall include notice of the right to appeal.

~~D.~~ Termination of the agreement shall not relieve the operator of any business obligations existing as of that date.

~~A.~~ The Department shall terminate an Operator's Agreement:

1. Under the terms of the Operator's Agreement;
2. Due to a BEP Operator's failure to meet conditions of Initial Probation or Performance Probation;
3. Upon revocation or surrender of a license;
4. Upon termination of the Grantor agreement; or
5. In the event of an Abandoned Facility.

~~B.~~ The BEP, following notification to the APOC chairperson, shall provide a notice of termination of the Operator's Agreement to a BEP Operator in writing or in person that:

1. States the grounds for the termination of the BEP Operator's Agreement;
2. Refers to any applicable provision of law or agreement; and
3. Advises the BEP Operator of the right to Appeal the termination of the Operator's Agreement.

~~C.~~ The BEP shall reconcile all records and inventoried items for which the BEP Operator was responsible upon termination of an Operator's Agreement. The report of the reconciliation shall be transmitted in writing to the BEP Operator or the BEP Operator's estate within 90 calendar days from termination of the Operator's Agreement and shall include notice of the BEP Operator's right to Appeal.

~~D.~~ Termination of an Operator's Agreement shall not relieve the BEP Operator of any business obligations existing as of the date of the termination of the BEP Operator's Agreement.

R6-4-319. ~~Revocation of license~~ License

~~A.~~ The following shall be grounds for the revocation of a BEP operator's license:

1. ~~The operator is not in compliance with the requirements of this Article, contractual agreements or any applicable federal or state statute or rule.~~
2. ~~There is a deliberate material misrepresentation to the Department by the operator relating to the BEP.~~
3. ~~The operator uses alcoholic beverages or illegal drugs while engaged in the operation of the business facility or operates the business facility while under their influence.~~
4. ~~The operator neglects or refuses to timely provide information, including reports, and to timely transmit assessments required by this Article.~~
5. ~~The operator abandons the business facility or fails without just cause to open the facility for business at the scheduled hours without prior notice to the BEP.~~
6. ~~The operator is convicted of a felony while participating in the program.~~
7. ~~The operator no longer meets the qualifications for participation in the BEP due to:~~
 - a. ~~Improvement of vision to the degree that he is no longer a legally blind person;~~
 - b. ~~Change of citizenship from the United States;~~

- e. Inability to meet the physical or emotional demands of operating a business facility following evaluation by the BEP.
- B.** ~~The BEP operator shall be given written notice, following notification to the APOC chairman, of the Department’s revocation by certified mail, return receipt requested, or in person. The notice shall state the grounds for the action and shall refer to any applicable provision of law, rule or agreement, and it shall advise the operator of the right to appeal.~~
- C.** ~~The revocation of an operator’s license shall not relieve the operator of any business obligations existing as of that date.~~
- A.** The BEP shall revoke a BEP Operator's license for the following reasons:
 1. A BEP Operator is not in compliance with the requirements of this Article, contractual agreements, or any applicable federal or state statute, regulation, rule, policy, or procedure.
 2. A BEP Operator's deliberate material misrepresentation to the Department related to the BEP.
 3. A BEP Operator's use of, or impairment from, alcoholic beverages or drugs that cause impairment while engaged in the operation of the Business Facility.
 4. A BEP Operator neglects or refuses to provide information, including reports, and to transmit evaluations required by this Article on a monthly basis by the deadline indicated in the Operator's Agreement and in accordance with BEP policy.
 5. In the event of an Abandoned Facility or when the BEP Operator fails without Good Cause to open the Business Facility for business at the scheduled hours without notice to the BEP in accordance with BEP policy.
 6. A BEP Operator is convicted of a felony while participating in the BEP.
 7. A BEP Operator no longer meets the qualifications for participation in the BEP due to:
 - a. An improvement of vision to the degree that the BEP Operator is no longer Legally Blind;
 - b. A change of citizenship from the United States to citizenship of another country; or
 - c. An inability to meet the physical or emotional demands of operating a Business Facility following evaluation by the BEP.
- B.** The Department, after notifying the APOC chairperson, shall provide a BEP Operator written notice of the Department’s revocation of the BEP Operator's license. The notice shall state the grounds for the action and shall refer to any applicable provision of law, regulation, rule, or agreement, and advise the BEP Operator of the right to Appeal.
- C.** The revocation of a BEP Operator's license shall not relieve the BEP Operator of any business obligations existing as of the license revocation date.
- D.** Termination of an Operator's Agreement or revocation of a BEP Operator's license shall not occur until the BEP Operator has been provided the opportunity for a full evidentiary Hearing pursuant to 34 CFR 395.13.

R6-4-320. State committee of blind vendors ~~Committee of Blind Vendors~~

- A.** ~~In Arizona, the Arizona Participating Operators Committee (APOC) shall be the state committee of blind vendors which shall actively participate in the Business Enterprise Program as provided below and elsewhere in this Article.~~
- B.** ~~APOC shall enact bylaws consistent with this Article and any applicable regulatory or statutory provisions and provide BEP with a copy.~~
- C.** ~~In fulfilling its ultimate responsibility for the administration and operation of all aspects of the Business Enterprise Program, the Department shall assure that APOC shall actively participate in the BEP through the following:~~
 1. ~~The rulemaking procedures outlined in A.R.S. § 41-1001 and following.~~
 2. ~~The receipt and transmittal to the BEP of grievances filed in writing with APOC at the request of BEP operators, and at the discretion of the BEP operator, the appearance of a member of APOC as his representative at any hearing within the Department pursuant to this Article.~~
 3. ~~The review, consideration and involvement in the program’s decision making through membership on committees established by this Article.~~
 4. ~~By working with the BEP to establish training curricula and by serving as lecturers, faculty members, or in other roles at such training.~~
 5. ~~In addition, the BEP shall consult with APOC when advice and counsel may be of assistance to the program and Arizona’s BEP operators.~~
- A.** In Arizona, the APOC shall be the state committee of blind vendors who are elected biennially and shall actively participate in the BEP, as provided below and elsewhere in this Article.
- B.** The APOC shall enact bylaws consistent with this Article and any applicable regulatory or statutory provisions and shall provide the BEP with a copy.
- C.** In fulfilling the responsibility for administration and operation of all aspects of the BEP, the Department shall assure that the APOC actively participates in the BEP through:
 1. Participating in the administrative rulemaking process;
 2. Receiving and transmitting to the BEP all grievances filed in writing with the APOC at the request of a BEP Operator;
 3. Having a member of the APOC appear as the BEP Operator's representative at any Hearing at the request of the BEP Operator;
 4. The review, consideration, and involvement in the BEP's decision-making through membership on Committees established by this Article;
 5. Working with the BEP to establish training curricula and by serving as lecturers, faculty members, or in other roles at such training; and
 6. Consulting with the BEP when advice and counsel may be of assistance to the BEP and Arizona’s BEP Operators.

R6-4-321. Assessment against net proceeds of operators ~~Set aside~~

- A.** ~~The BEP shall set aside funds from the net proceeds of the operation of a business facility based on a monthly assessment schedule determined after consultation with APOC and approved by the Secretary of the U.S. Department of Education. The currently approved monthly assessment schedule is:~~

Net Proceeds	Assessment Schedule
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First \$400	2%
\$401-\$500	\$8.00 plus 5%
\$501-\$600	\$13.00 plus 10%
\$601-\$700	\$23.00 plus 15%
\$701 and over	\$38.00 plus 20%

- ~~B.~~ The funds set aside from the operator’s monthly assessment shall be used only for the purposes stated in 34 CFR 395.9(b) (July 1, 1988), incorporated by reference and on file with the Office of the Secretary of State.
- A. The BEP shall set aside funds from the Net Proceeds of the operation of a Business Facility based on a monthly schedule determined after consultation with the APOC and approved by the Secretary of the United States Department of Education.
- B. As part of the annual budget process, the set-aside schedule shall be evaluated with active participation from the APOC in accordance with 34 CFR 395.9(c). The final set-aside decision shall be made by the BEP Manager.
- C. The new set-aside schedule shall be determined on or before June 30th of the current year. The rate set each year shall run from July 1st of the current year through June 30th of the following year.
- D. Yearly set-aside schedules shall be posted in the minutes following the APOC meetings and shall be posted in the SLA offices and on the DES website.
- E. The set-aside funds shall be used only for the purposes stated in 34 CFR 395.9(b).

R6-4-322. Guaranteed fair minimum of return ~~Fair Minimum of Return~~

- ~~A.~~ A guaranteed fair minimum of return shall be granted to a BEP operator by the BEP if the net proceeds over three consecutive months average less than the prevailing federal minimum wage and if the reason for the low net proceeds is beyond the control of the operator as determined by the BEP, following consultation with APOC. The need for a guaranteed fair minimum of return may be reflected in the monthly operator’s report pursuant to R6-4-324(B) or may be requested by the BEP operator.
- ~~B.~~ The BEP shall notify the BEP operator of approval or denial of the request for a fair minimum of return within 15 calendar days of the operator’s request.
- ~~C.~~ Any denial by the BEP of a guaranteed fair minimum of return to a BEP operator shall be reduced to writing and issued by certified mail, return receipt requested, or in person and shall include the reasons for the determination and notice of the right to appeal.
- A. A Guaranteed Fair Minimum of Return shall be granted to a BEP Operator by the BEP if the BEP Operator's Net Proceeds over three consecutive months average less than the prevailing federal minimum wage and if the reason for the low Net Proceeds is beyond the control of the BEP Operator as determined by the BEP, following consultation with the APOC. The need for a Guaranteed Fair Minimum of Return may be reflected in the monthly BEP Operator's report pursuant to R6-4-324(B) or may be requested by a BEP Operator.
- B. The BEP shall notify the BEP Operator of approval or denial of the request for a Guaranteed Fair Minimum of Return within 15 calendar days of the BEP Operator's request.
- C. Any denial by the BEP of a Guaranteed Fair Minimum of Return to a BEP Operator shall be in writing and issued to the BEP Operator and shall include the reasons for the determination and notice of the right to Appeal.

R6-4-323. Distribution and ~~use of federal unassigned vending machine income~~ Use of Federal Unassigned Vending Machine Income

Federal unassigned vending machine income shall be used for BEP operator benefits as determined by a majority vote of all BEP operators in the state at an all operator’s meeting, and as limited by 34 CFR 395.8 (July 1, 1988), incorporated by reference and on file with the Office of the Secretary of State. Any federal unassigned vending machine income not necessary for such purposes shall be used by the BEP for the maintenance and replacement of equipment, the purchase of new equipment, management services, and assuring a fair minimum of return to vendors.

- A. Federal unassigned vending machine income shall be used for BEP Operator benefits as determined by a majority vote of all BEP Operators in an All-Operators Meeting, and as limited by 34 CFR 395.8.
- B. Any federal unassigned vending machine income not necessary for such purposes shall be used by the BEP for the maintenance and replacement of equipment, purchase of new equipment, management services, and assuring a Guaranteed Fair Minimum of Return to BEP Operators.

R6-4-324. Reports and ~~recordkeeping; access to information~~ Recordkeeping; Access to Information

- ~~A.~~ The BEP operator shall maintain financial records of all operations in accordance with generally accepted accounting principles. These records shall be available for inspection by the Department and shall be retained by the operator at least five years unless involved in an audit by the Department. In case of an audit the records shall be retained until the audit is closed and any appeals finalized.
- ~~B.~~ Each BEP operator shall submit to the Department a monthly operator’s report by the date posted on the monthly billing statement issued by BEP to each operator. The operator’s report shall be on a form prescribed by the Department, in consultation with APOC, and shall include the following information:
 - ~~1.~~ Gross sales which shall include the total of all sales of goods plus vending machine income.
 - ~~2.~~ Allowable business expenses.
 - ~~3.~~ Net profit.
 - ~~4.~~ Amount of monthly assessment.
- C. Monthly assessments which are due and owing to the Department shall accompany the monthly operator’s report in the form of a personal check if an insufficient funds check has not been submitted in the preceding 12 months, otherwise by certified check or money order.
- D. Each BEP operator shall submit to the Department an annual inventory report which shall be on a form prescribed by the Department.
- E. Each BEP operator shall furnish copies of any records and accounts pertaining to the operation of a business facility requested by the Department.

- A.** Each BEP Operator shall maintain financial records of all operations in accordance with generally accepted accounting principles.
 - 1. BEP Operators' financial records shall be available for inspection by the Department and shall be retained by the BEP Operator for at least five years unless involved in an audit by the Department.
 - 2. In the event of an audit, the BEP Operator shall retain records until the audit is closed and any Appeal is finalized in accordance with applicable retention schedules.
- B.** Each BEP Operator shall submit a monthly BEP Operator's report to the Department by the date posted on the monthly billing statement issued by the BEP to each BEP Operator. The BEP Operator's report shall be on a form prescribed by the Department, in consultation with the APOC, and shall include:
 - 1. Gross sales, which shall include the total of all sales of goods plus vending machine income;
 - 2. Allowable business expenses;
 - 3. Net profit; and
 - 4. Amount due per the set-aside schedule as described in R6-4-321.
- C.** Set-aside funds that are due and owing to the Department shall accompany the monthly BEP Operator's report in the form of a personal check if an insufficient funds check has not been submitted in the preceding 12 months, otherwise by certified check or money order.
- D.** Each BEP Operator shall submit to the Department an annual inventory report, which shall be on a form prescribed by the Department.
- E.** Each BEP Operator shall provide copies of any records and accounts regarding the operation of a Business Facility requested by the Department.

R6-4-325. Appeals

- A.** ~~A BEP candidate, trainee, or operator adversely affected by any decision made by the BEP shall have recourse to an administrative review and fair hearing pursuant to R6-4-404 except that, for a BEP candidate or trainee, the decision of a hearing officer may be reviewed by the Department in accordance with 34 CFR 361.48(e)(2)(iv) (July 1, 1988), incorporated by reference and on file with the Office of the Secretary of State. The decision of the hearing officer shall be final 20 days from the mailing of the hearing officer's decision if no further action is taken by the Department. For a BEP candidate or trainee, a final decision may be appealed through judicial review pursuant to A.R.S. § 12-901 et seq.~~
- B.** ~~A final decision of the Department may be appealed by a BEP operator either through judicial review pursuant to A.R.S. § 12-901 et seq. or through the Secretary of the U.S. Department of Education pursuant to 34 CFR 395.13 (July 1, 1988), incorporated by reference and on file with the Office of the Secretary of State.~~
- A.** A Candidate, Trainee, or Licensee who is adversely affected by any decision made by the BEP shall have recourse to an administrative review and Hearing under R6-4-210 except that, for a Candidate or Trainee, the decision of a Hearing Officer may be reviewed by the Department in accordance with 34 CFR 361.57(g).
- B.** The decision of the Hearing Officer shall be final 20 calendar days from the date of the Hearing Officer's decision if no further action is taken by the Department.
- C.** For a Candidate, Trainee, or Licensee a final decision may be appealed through judicial review pursuant to A.R.S. § 12-901 et seq. or a Licensee may Appeal through the United States Department of Education, in accordance with 34 CFR 395.13.

ARTICLE 4. OTHER RULES AND PROVISIONS THAT RELATE TO PROVIDING SERVICES TO INDIVIDUALS REPEALED

R6-4-401. ~~Order of selection~~ Repealed

- A.** ~~The order of selection is an organized, equitable method for serving selected groups of handicapped individuals in their order of priority if all eligible individuals who apply cannot be served.~~
- B.** ~~The state agency shall maintain the following order of selection:~~
 - ~~1. The severely handicapped (as defined by R.S.A. Chapter 3005.00, Statistical Reporting System);~~
 - ~~2. The disabled public assistance recipients;~~
 - ~~3. The deaf blind. This target group population is comprised of those handicapped individuals who are:~~
 - ~~a. Visually impaired within the definition used by SBS for eligibility for Vocational Rehabilitation services;~~
 - ~~b. Deaf to the extent that the individual is not able to hear normal speech with or without amplification or not expected to be able to do so in the near future as a result of a progressive disease process; and~~
 - ~~c. Who need services not available traditionally in programs serving either one or the other of disability groups alone.~~
 - ~~4. The developmentally disabled:~~
 - ~~a. The term "developmental disability" means a disability of a person which:~~
 - ~~i. Is attributable to mental retardation, cerebral palsy, epilepsy or autism;~~
 - ~~ii. Is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or~~
 - ~~iii. Is attributable to dyslexia resulting from a disability described in subsection (B)(4)(a)(i) or (ii);~~
 - ~~b. Originates before such person attains age 18;~~
 - ~~c. Has continued or can be expected to continue indefinitely; and~~
 - ~~d. Constitutes a substantial handicap to such person's ability to function normally in society.~~
 - ~~5. All other eligible vocationally handicapped individuals with the state.~~

R6-4-402. ~~Service and provider standards, service authorizations, equipment purchasing, Workers' Compensation~~ Repealed

- A.** ~~Provider standards~~
 - ~~1. Providers of medical diagnostic and restorative services must, as a minimum, meet the following definitions:~~

- a. "Dentist." Dentist means a person licensed to practice dentistry or dental surgery under Chapter 11, Title 32 of the Arizona Revised Statutes.
 - b. "Dispensing optician." Dispensing optician means any person who is licensed under Chapter 15, Title 32 of the Arizona Revised Statutes to dispense lenses, contact lenses, frames, artificial eyes, optical devices, appurtenances thereto or parts thereof to the intended wearer on written prescription from a duly licensed physician or optometrist.
 - c. "Occupational therapist." Occupational therapist means a person who is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association or has two years of appropriate experience as an occupational therapist and has achieved a satisfactory grade on a proficiency examination approved by the Secretary except that such determination of proficiency shall not apply with respect to persons initially licensed by a state or seeking initial qualifications as an occupational therapist after December 21, 1977.
 - d. "Optometrist." Optometrist means a person who is licensed to practice optometry under Chapter 16, Title 32 of the Arizona Revised Statutes.
 - e. "Orthotist and/or prosthetist." Orthotist and/or prosthetist means a person who is certified by the American Board for Certification for Orthotics and Prosthetics, Inc.
 - f. "Physical therapist." Physical therapist means a person registered to practice physical therapy under Chapter 19, Title 32, Arizona Revised Statutes.
 - g. "Physician." Physician means a person licensed under Chapter 13 or 17, Title 32, Arizona Revised Statutes.
 - h. "Physician specialist." For purposes of this program, a specialist is a licensed physician who limits his practice to specialization and who:
 - i. Is a diplomat of the appropriate American or Osteopathic Board; or
 - ii. Is a fellow of the appropriate American Specialty College or a member of an Osteopathic Specialty College; or
 - iii. Has been notified of admissibility to examination by the appropriate American Board or Osteopathic Board or has evidence of completion of an appropriate qualifying residency approved by the American Medical Association or American Osteopathic Association and has not lost his eligibility; or
 - iv. Holds a staff appointment on July 1, 1976, with specialty privileges in a hospital accredited by the Joint Commission of Accreditation of Hospitals or by the American Osteopathic Association.
 - i. "Podiatrist." Podiatrist means a person licensed to practice podiatry under Chapter 7, Title 32, Arizona Revised Statutes.
 - j. "Respiratory therapist." Respiratory therapist means a person who is a graduate of an American Medical Association approved respiratory care education and training program and who has been registered by the American Registry of Inhalation Therapist, Inc., following successful completion of the American Registered Inhalation Therapist Examination.
 - k. "Speech therapist or audiologist." Speech therapist means a person who has been granted the Certificate of Clinical Competence in the American Speech and Hearing Association, or who has completed the equivalent educational requirements and work experience required for such a certificate, or who has completed the academic program or is in the process of accumulating the supervised work experience required for such a certificate.
2. Psychological services for VR are to be provided only by qualified psychologists, as described below:
- a. A certified psychologist who holds a current certificate for the practice of psychology issued by the Arizona State Board of Psychologist Examiners and who has the necessary skills to provide diagnosis and treatment of mental or emotional disorders; or
 - b. A noncertified associate psychologist who has as a minimum a master's degree in psychology, clinical psychology, counseling psychology, or educational psychology from an approved psychology training program at an accredited college or university, and the necessary skills to provide diagnosis and treatment of mental or emotional disorders, and is professionally supervised by a certified psychologist and who assumes professional responsibility and accountability for the psychological services of his staff. The supervising psychologist shall review the referral information to assist in the selection of appropriate diagnostic or treatment methods, be available for case consultation during evaluation or treatment sessions, participate in data interpretation and report development and review and co-sign evaluation or treatment reports.
3. Standards for providers of training or education:
- a. Private business, vocational or technical schools. Those schools that are licensed in accordance with A.R.S. § 15-931 and provide printed curricula and fees.
 - b. Tutors. VR counselors shall use tutors, for fee, only when such individuals have demonstrated competence and/or training in the area of service being purchased.
 - c. OJT. On the job training shall be purchased in accordance with the instructions in R6-4-206(C)(8) through (14).
 - d. Orientation and mobility specialist. Bachelor's or master's degree in orientation and mobility. AAWB provisional or permanent orientation and mobility certification within six months of employment.
 - e. Rehabilitation teacher. One year of experience in rehabilitation teaching or related instruction of the handicapped or a master's degree in rehabilitation teaching, special education or related. AAWB provisional or permanent rehabilitation teaching certification within six months of employment. In the case of services to children, a special education certificate in the area of visually handicapped and/or deaf/blind or a special education certificate and a minimum of one year's experience.
 - f. Rehabilitation facilities. By 1980, all facilities utilized by VR shall be accredited, or in the process of applying for accreditation, by CARF, NAC, or other recognized accrediting bodies.
4. Interpreters for the deaf must be certifiable by the Registry of Interpreters for the Deaf whenever possible.
- B. Service standards and service descriptions.**
- 1. Medical:
 - a. Medical consultation may be provided only by a person currently licensed by the state as "physician."
 - b. The provider of restoration services shall:

- i. Submit a report outlining the problem, what restoration services are necessary and timeframes in which such will be accomplished.
 - ii. Submit a written report to justify any services that may be required beyond 90 days.
 - iii. Advise counselor of all extra procedures required but not included in the original authorization.
 - iv. Advise counselor of costs and all changes in costs.
 - v. Provide billings promptly.
- e. Ancillary services. All medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the state.
- i. Physical therapy shall provide information regarding range of motion, strength, coordination and physical tolerance. It can also recommend whether an existing orthopedic condition is stable and make recommendations for further treatment. The knowledge gained can be expressed in functional terms which is directly related to the client's vocational planning. The therapy aspect is designed to assist the individual in reaching his maximum functional level through various treatment modalities such as hydrotherapy, electrotherapy and coordinated exercises.
 - ii. Occupational therapy shall involve a determination of the client's level of independent living skills relating to self care activities, homemaking activities, 206 and ability to utilize transportation. Additionally, evaluation of upper extremity function and perceptual skills are included. The OT evaluation also determines the suitability of the client's home in terms of architectural features and determine the need for modifications, if appropriate, as well as the need for special equipment such as splints, upper extremity prosthesis and assistive devices.
 - iii. Rehabilitation nursing shall provide screening to detect possible health problems, identifies possible accident prone clients, detects poor hygiene, possible substance abuse, behavioral and attitudinal factors and need for additional medical evaluations. The evaluation identifies the vocational significance of these factors and also indicates the manner in which the presence of certain factors might affect the evaluative findings of other services of the facility. The therapeutic aspect of Rehabilitation Nursing is expressed by its role of consultant to other members of the rehabilitation team.
- d. Speech therapy shall identify disorders of voice, articulation, language or fluency along with the vocational significance of various disorders. Treatment consists of individual and group therapy to correct the diagnosed disorder.
- e. Audiological services shall be utilized to determine the existence of hearing difficulties and to develop a plan to manage the deficiencies. The evaluation determines the nature of the hearing loss and its vocational significance. The treatment program might include auditory training, lip reading and counseling regarding the use of a hearing aid.
- f. Interpreter services shall involve the provision of an interpreter who is certifiable by the Registry of Interpreters for the Deaf to assist the deaf person in communication with hearing people. Interpreting services are necessary if the deaf individual is to have access to, and benefit from, those services and resources available to clients in the rehabilitation process. Specifically, the interpreter must be capable of interpreting speech for the deaf individual and reverse interpreting; i.e., manual communication into speech at the level and speed at which the deaf person communicates.
2. Psychological services:
- a. Psychological evaluation for the VR program requires the administration, scoring and interpretation of psychological tests which measure intelligence, personality, achievement, aptitudes, interests and other clinically significant psychological attributes of clients. The psychologist must provide reports of findings to VR counselors, including diagnosis of mental or emotional disorders, if present, and recommendations for appropriate counseling, treatment or training strategies which may render the individual more employable.
 - b. Consultation shall be related to the psychological aspects of individual cases so as to establish whether a psychological disability is adequately documented by the available evidence; to provide certification of severely disabled status; to assess all psychologically related needs of an individual in a VR program; to recommend appropriate restorative services. All case records reviewed will be annotated and reviews will be coordinated with medical consultants, where appropriate. Consultation can only be provided by a certified psychologist.
- e. Mental restoration services. The provider of mental restoration services shall:
- i. Submit a report outlining the problem, proposed services and therapy goals and timeframes in which such will be accomplished.
 - ii. Submit regular progress reports to the VR counselor.
 - iii. Advise counselor of all changes in therapy goals or changes in timeframes.
 - iv. Advise counselor of costs and all changes in costs.
 - v. Provide billings for services performed promptly.
3. Vocational evaluation shall be a comprehensive process that systematically utilizes real or simulated work as a means of determining an individual's present work ability and predicting his work potential. The process is based upon a review and consideration of all data relating to the client, including medical, psychological, social, vocational, cultural, education and economic as well as objective data obtained by assessment of the client. The process will include as appropriate for the client, paper and pencil tests, work samples, situational assessment on job stations and on the job tryout. The evaluation will generate a report to the referring VR or SRBVI counselor which will provide the counselor with an understanding of the client's capabilities and limitations as they relate to work, will provide a basis for vocational exploration and will enable the counselor to identify vocational goals which are suitable to the client's interests, aptitudes, and physical and mental capabilities.
4. Training services:
- a. Work adjustment services shall be provided by rehabilitation facilities or sheltered workshops who have the resources, knowledge and accountability to provide this service. Work adjustment is a treatment/training process utilizing individual and/or group work or work related activities. The goal of work adjustment is to assist clients in understanding the meaning, value and demands of work; to modify or develop positive attitudes toward work; to develop appropriate personal characteristics and behavior; and to develop the functional capacities necessary to reach an optimum level of vocational development. The facility will:

- i. Have prior authorization to provide services from the VR counselor;
 - ii. Notify counselor of any changes in goals or timeframes;
 - iii. Provide monthly progress reports including objective data relative to client movement towards the goals;
 - iv. Provide billing promptly;
5. Pre-vocational adjustment shall be a work adjustment process especially designed to meet the needs of a specific target population; namely, physically or mentally disabled persons who have no known skills and who have never been employed. It is a process which is normally provided by a sheltered workshop and the goal is generally that of assisting the client to adjust to the workshop setting. Pre-vocational adjustment differs from work adjustment in that it focuses on habilitation rather than rehabilitation. Essentially, the same techniques will be utilized with modification as necessary to meet the special needs of the target group. The program must demonstrate objective client progress in development of behavior appropriate to a work setting and positive attitudes toward work. Facility responsibilities are the same as under work adjustment.
6. Personal adjustment:
- a. Personal and social adjustment as provided in a rehabilitation facility shall be a formalized training process designed to assist clients in resolving problems which may not be directly work related but which, nevertheless, must be resolved if the individual is to reach his optimum level vocationally or if he is to remain in employment over an extended period of time. Included are problems which, if not resolved, will eventually carry over into employment settings and result in marginal performance, excessive tardiness, absenteeism, or possibly termination. The program must demonstrate client progress in terms of greater independence and more effective functioning in a work setting as well as in all areas of the client's life.
 - b. Other personal adjustment services. Personal adjustment may also include services which provide skills or techniques for the specific purpose of enabling the individual to compensate for the loss of a member of the body or the loss of a sensory function. Included may be the following: training in the use of artificial limbs, aids or appliances; remedial training; literacy training; lip reading; braille; orientation and mobility training and rehabilitation teaching.
 - c. Rehabilitation teaching. Rehabilitation teaching provides instruction and training in learning adaptive skills necessary because of visual problems and/or blindness. These skills include communications skills (such as braille, typing, handwriting); home management skills (such as food preparation and nutrition, adaptive sewing techniques, marketing and budgeting); personal management skills (such as clothing care and organization, laundering, identification and labeling, grooming and hygiene); adaptive recreational skills, adaptive home mechanics and use of tools; and basic orientation skills within the home to enable a person to be mobile in his home environment and the necessary case management.
 - d. Orientation and mobility. Orientation and mobility provides instruction in cane training to blind and visually impaired persons in learning how to travel from one part of their environment to another in a safe, efficient, graceful and independent manner. These services may include orientation to the physical environment, instruction in independent travel techniques and/or lessons in the use of the low vision aids.
 - e. Whether these services are provided by a facility or individuals, appropriate provider standards apply. The reporting responsibilities are the same as those stated under the paragraph dealing with work adjustment. Rehabilitation teaching, orientation and mobility services are described below.
7. OJT:
- a. When an OJT establishes an employer/employee relationship, all applicable wage and hour laws shall apply.
 - b. The employer must be willing to provide such a service under contract.
 - c. Employer must be willing to observe all wage laws as they pertain; e.g., minimum wage, exceptions to minimum wage, etc.
 - d. Must state precisely what training will be provided and how such will be accomplished.
 - e. Employer must agree on timeframes and must be willing to accept payment for training as agreed in the contract.
 - f. Must report monthly on client's progress and submit billings on a monthly basis.
- C. Authorizations for services purchased from vendors:**
1. Contracts. Contracts for services may be negotiated between the counselor and vendor:
- a. They should contain the following elements:
 - i. Identify the parties involved;
 - ii. The specific services being authorized;
 - iii. Beginning and ending dates;
 - iv. The manner in which services will be provided;
 - v. Any required ancillary services; e.g., tools and supplies, registration fees, etc.
 - vi. The provider of the service;
 - vii. Goal of service being provided;
 - viii. Costs involved broken down in units of a month or less;
 - ix. Signatures of VR counselor and vendor.
 - b. Contracts must be written for all training services (including OJT's).
 - c. Contracts are to be written and signed before services are authorized.
 - d. If client or other sources are being used to pay for part of the training, this must be so stated on the contract.
2. A written authorization of services shall be made simultaneously with or prior to the purchase of services and such authorization will be retained. A VR counselor who is permitted to make an oral authorization in an emergency shall promptly document such an authorization in the client's case record and confirm it in writing to the provider of the service.
- D. Fee schedules. Fees shall be based on:**
- 1. The 1969 Relative Value Studies (unrevised) of the California Medical Association for medicine, surgery, radiology and pathology with the conversion factors set by Rehabilitation Services Bureau and available through state or local VR offices.
 - 2. ASA Relative Value Guide of 1974 with the conversion factors set by Rehabilitation Services Bureau and available through state or local VR offices.
 - 3. General medical examination to include a routine (chemical) urinalysis according to established fee schedule.

4. Dental fee schedule is developed by Rehabilitation Services Bureau and available through state or local offices.
 5. Fee schedule for eye services is developed by Rehabilitation Services Bureau and available through state or local offices.
 6. Psychological evaluation fee structure. Three levels of psychological evaluation have been established and for each level there is a fee range in recognition of differences in usual and customary fees for similar services among psychologists in various areas of the state. The psychologist and the local VR counselor may wish to agree to a set fee, within the fee range, for each level of evaluation to avoid having to negotiate the fee for evaluating each client; even so, flexibility should be allowed so that the fee for a particular level of evaluation may be adjusted higher or lower, within the fee range, depending upon the complexity of a particular case. Fee ranges have been set by Rehabilitation Services Bureau and are available through the state office or local VR office. Levels of psychological evaluation and reporting. (If, in the psychologist's judgment, a lower level evaluation than requested will provide the requested information, the psychologist shall render the lower level evaluation without the VR counselor's approval and adjust the billing; however, if a higher level evaluation than requested will be necessary to adequately answer the referral questions, such evaluation must first be authorized by the VR counselor (a telephone call and a brief case discussion may accomplish this). If a VR counselor is in doubt as to which level of evaluation to obtain, advice may be sought from the VR supervisor and, where available, the VR psychological consultant.
 - a. Minimal evaluation. Appropriate for individuals with a known history of mental or emotional impairment and prior psychological evaluation where an updating of the previous psychological information is desired (the psychologist's report will compare prior and current findings); also appropriate for individuals for whom only minimal information is needed.
 - b. Moderate evaluation. Appropriate for most individuals with no prior psychological evaluation or where prior evaluations are no longer applicable, and where more than a minimal evaluation is needed; the psychologist's report will provide a fairly detailed picture of the individual's assets and liabilities in response to the referral questions.
 - c. Comprehensive evaluation. Appropriate for individuals requiring a very extensive or specialized psychological evaluation to answer the referral questions, whether or not prior evaluations have been rendered; the psychologist's report will provide a very extensive description of the individual's assets and liabilities.
 7. Mental restoration services. (Appointments missed without prior notification will be reimbursed at 1/2 the agreed-upon fee; however, no reimbursement will be provided for a missed appointment if, before such appointment, the psychologist and individual jointly reschedule the appointment.)
 - a. Individual or family therapy. The VR counselor and the psychologist will agree to a reasonable fee based on the psychologist's usual and customary fees, area of treatment specialization and length of treatment session.
 - b. Group therapy. The VR counselor and the psychologist will agree to a reasonable fee based on the psychologist's usual and customary fees, area of treatment specialization and length of treatment session.
- E.** Purchase of equipment. All equipment purchases shall be made in conformance with A.R.S. § 41-730 and rules, regulations and policies established and published under its authority.
- F.** Inventory of equipment. All equipment purchased shall be inventoried in accordance with policies established by state Department of Administration and the Department in conformance with A.R.S. § 41-729 and rules, regulations and policies established and published under this authority.
- G.** Workmen's Compensation coverage for client's shall be provided in conformance to A.R.S. § 23-901 et seq.

R6-4-403. Economic need and similar benefits—Repealed

- A.** Economic need criteria.
1. Economic need. The purpose of economic need criteria is to determine whether the client will contribute, in whole or in part, to the cost of those services for which an economic need test is required or not.
 - a. An economic need test shall be applied for the following services:
 - i. Physical and mental restoration services;
 - ii. Maintenance;
 - iii. Transportation for other than diagnostic purposes;
 - iv. Services to members of a handicapped individual's family necessary to the adjustment or rehabilitation of the handicapped individual;
 - v. Telecommunications, sensory and other technological aids and devices;
 - vi. Occupational licenses, tools, equipment and initial stocks (including livestock) and supplies (including training books and materials);
 - vii. Other goods and services which can reasonably be expected to benefit a handicapped individual in terms of his employability;
 - viii. Nondiagnostic services provided to a client in extended evaluation are subject to economic need criteria.
 - b. No test of economic need shall be applied as a condition for furnishing the following vocational rehabilitation services:
 - i. Evaluation of rehabilitation potential; i.e., diagnostic and related services;
 - ii. Transportation for diagnostic purposes only;
 - iii. Counseling, guidance and referral;
 - iv. Interpreter services for the deaf;
 - v. Reader services, rehabilitation teaching services and orientation mobility services for the blind;
 - vi. Vocational and other training services (available similar benefits for higher education must be considered);
 - vii. Placement.
 - c. No test of economic need will be applied for those services provided with SSI/SSDI special funds (see Section R6-4-601 and R6-4-602).
 2. General considerations.
 - a. Eligibility requirements for VR services will be applied without regard to the economic status of the applicant.

- b. All available client resources shall be utilized when providing services conditioned on economic need including all liquid assets (assets readily converted to cash by financial institutions limited to checking accounts, savings accounts, bonds, and securities) before considering economic need based on income.
 - e. A client may be allowed to reserve liquid assets (as defined in subsection (A)(2)(a)) up to \$2,500, but to reserve liquid assets, it must be documented that such a reserve is required for medical, health reasons or other disability related reasons; e.g., an individual without health insurance coverage but who is known to have or will have in the near future, substantial medical expenses. Counselor must exercise prudent judgment and must have prior supervisory approval before disallowing such assets.
 - d. All similar benefits and financial assistance programs must be explored and utilized (per instructions in Section R6-4-303(B)) including work study programs.
 - e. Economic need must be redetermined when a change in client's financial status occurs. The yearly annual review of progress will include a review of the client's financial status.
 - f. Economic need criteria will be applied to the family unit for a dependent minor. A minor is anyone under 18 years of age who is dependent on parents, legal guardian, other family member. When the minor and family are estranged, and family is not contributing substantially to his welfare, the minor may be considered as an independent adult.
 - g. Economic need criteria will also be applied to the family unit for those VR clients who are non-minors (adults) and who are currently being claimed as dependents for income tax purposes during the current tax year.
3. Income:
- a. Income that must be counted is net wages after mandatory deductions such as income taxes, social security, taxes and mandatory retirement contributions.
 - b. Also counted as income are:
 - i. Financial assistance from family and friends including trust funds, alimony and inheritance;
 - ii. Welfare, ADC, GA, SSI;
 - iii. Compensation, VA disability, SSDI, Workmen's Compensation, U.I., retirement, insurance settlements, etc.;
 - iv. Interest, dividends and fees available or received;
 - v. Tribal or BIA assistance;
 - vi. Child support payments.
 - e. Any difference between similar benefits provided and actual cost of training or health maintenance must be considered as income, including but not limited to the following:
 - i. Hospital or health insurance;
 - ii. GI bill;
 - iii. VA rehabilitation;
 - iv. Educational grants;
 - v. Scholarships.
4. The value of investment or income property owned by the client is considered in determining contributions to be made by the client to the costs of his rehabilitation services. Such are considered as assets and must be used to contribute to the cost of those rehabilitation services which are dependent on economic need. These cases will be handled on an individual basis. The counselor shall discuss them with supervisor and, as necessary, the District Program Manager.
5. Method of applying the economic need determination to client's participation in the costs of the rehabilitation program:
- a. See R6-4-206(D) for instructions on how to apply economic need criteria to the provision of maintenance services;
 - b. In making an economic need determination, all liquid assets will be applied to cost of services before considering client's contributions based on monthly income;
 - e. If client has income over 80% of the Arizona median income figures provided by Department of Economic Security for administration of Title XX, he shall contribute that portion towards the cost of services which have an economic need criteria. Every attempt must be made to have vendor agree to time payments for one-time purchases when client is able to contribute to only part of their costs.
 - d. Exceptions to the above require prior approval by the supervisor.
- B. Similar benefits:**
- 1. Similar benefits are those benefits provided under programs other than VR which, if available, are used to meet, in whole or in part, the cost of the same or similar VR service the Agency would otherwise provide.
 - 2. Use of similar benefits:
 - a. Services for which similar benefits must be considered and used, if available, are:
 - i. Physical and mental restoration services;
 - ii. Training, which includes:
 - (1) Colleges, Community/Junior;
 - (2) Vocational training in private or public schools.
 - iii. Maintenance;
 - iv. Occupational licenses, tools, equipment and initial stocks and supplies;
 - v. Transportation in connection with rehabilitation services (not for evaluation of rehabilitation potential);
 - vi. Telecommunications, sensory and other technological aids and devices;
 - vii. Interpreter and reader services;
 - viii. Rehabilitation teaching services and orientation/mobility services for the blind.
 - b. Similar benefits are not mandated for the following, but the counselor must make all efforts to acquire any similar benefits that may be available:
 - i. OJT's;
 - ii. Work adjustment;

- iii. Remedial education;
 - iv. Evaluation of rehabilitation potential;
 - v. Counseling, guidance and referral;
 - vi. Books, tools and other training materials;
 - vii. Services to family members;
 - viii. Most employment services necessary to maintain handicapped client in suitable employment.
 - e. Similar benefits are to be utilized in all cases to the extent they are adequate, timely and do not interfere with achieving the rehabilitation objective of the individual.
 - d. An exception is made to the similar benefits review if such would cause significant delay in the provision of physical and mental restoration or maintenance services.
 - e. Although services to family members and post-employment services are not listed as requiring a similar benefits' review, a similar benefits' review is required for all those services provided in these two service categories which are listed elsewhere as requiring such.
3. General considerations:
- a. An individual is eligible for similar benefits when he is legally qualified to receive such service.
 - b. The counselor must give full consideration of all available similar benefits.
 - e. The counselor must use maximum effort to secure similar benefit for a rehabilitation service. This effort must be documented in the IWRP. Counselor also must use contracted services or services under cooperative agreements if such are available to the client.
 - d. An individual eligible for similar benefits must utilize such insofar as they are adequate and do not interfere with achieving the rehabilitation objective of the individual.

R6-4-404. Administrative review and fair hearings Repealed

A. General considerations:

1. Pursuant to federal regulations (CFR 1361.46) the VR Agency shall provide for applicants or clients of Vocational Rehabilitation who are dissatisfied with any action with regard to the furnishing or denial of services, a chance to file a request for an administrative review and redetermination of that action. When the individual is dissatisfied with the finding of this administrative review, he shall be granted an opportunity for a hearing. All clients must be informed of this provision at the time they apply for services.
2. A dissatisfied client has a number of recourses which shall be explored before an administrative review or a hearing is necessary or recommended:
 - a. Clients shall first be encouraged to discuss problems with their counselor. It is a normal part of counseling that the client and counselor must from time to time confront issues not pleasant or agreeable to either. The counselor/client relationship must be preserved if at all possible, not to protect the agency but to preserve the necessary continuity and autonomy of that counseling relationship.
 - b. When it is clear to either counselor, client or supervisor that the client/counselor relationship has broken down or that disagreements are not solvable within the context of that relationship, several alternatives may be considered:
 - i. Assignment to different counselor if the problem is judged to be a conflict in personality or style of relating;
 - ii. Meeting of client with the counselor's immediate supervisor with or without counselor present to help clarify policy or programmatic issues. This may result in either the transferring of case to another counselor or renewed attempt to reestablish the original client/counselor relationship;
 - iii. For this type of informal review, it is often helpful for supervisor to request or bring in outside consultation to help clarify the issues or problems.
 - e. If, after all alternatives have been explored, and the client remains dissatisfied, he shall be reminded of the recourse he has for an administrative review and must be assisted in receiving the benefit of such a review. Courtesy, fairness and promptness must guide the counselor's or supervisor's actions. After it has been established that a review will be set up, the counselor or supervisor may not change a program of services or take any new action on the case regarding the issue(s) raised until such issues have been resolved, nor may an attempt be made to influence the direction of the review.
3. Administrative review:
 - a. An administrative review is instituted at the request (written or verbal) of a client or applicant who is dissatisfied with any action regarding the furnishing or denial of services. Other informal avenues are to be explored before an administrative review is instituted. Requests for review, if in writing, shall be filed in client's case and copy forwarded to District VR Program Manager.
 - b. An administrative review shall be set up and held at the district level by District VR Program Manager or SBS/VR Manager. The individual with whom the complaint is filed is responsible for making necessary arrangements or to see that such arrangements are made. The hearing shall be conducted at a reasonable time, date and place and adequate preliminary written notice shall be given.
 - e. Persons to be involved are:
 - i. Client who is requesting the review;
 - ii. District VR Program Manager or SBSVR Manager as representatives of the Bureau Chief;
 - iii. VR Counselor involved;
 - iv. If client is deaf or mute, an interpreter will be present;
 - v. If the client does not have an adequate "grasp" of the English language, then an interpreter must be provided.
 - d. Persons who may also be involved:
 - i. Client may request to have a representative present;
 - ii. Other specialists at the discretion of District VR Program Manager.
 - e. Review procedures:

- i. Minutes of the meeting shall be taken which summarize the issues raised, facts presented and discussion (a verbatim transcript is not required). If decisions were made during the review, they are also to be recorded. A copy of such minutes must be kept in permanent record files.
 - ii. The counselor is asked first to summarize the problem and to present his position;
 - iii. The client is asked if he has any questions and then to present his views on the problem and his position. In turn, the counselor may ask him questions.
 - iv. Discussion may follow with each individual given a chance to make closing comments. The client should be allowed to speak last.
- f. Client shall be advised that the Administrative Review is not a legal hearing but an attempt to resolve conflicts by clarifying the issues, reviewing decisions and deciding whether to uphold those decisions based on state and federal laws, rules, regulations and policies as they apply to the particular circumstances of the case. The Agency must give timely and adequate notice to the client of decisions reached. Decision will be made within ten working days following the review.
- g. Any decisions must be made with due regard to client's rights. The district VR Program Manager must be able and willing to state to the client the reasons for decisions reached.
- h. The District VR Program Manager must advise RSB of a pending review. Technical assistance will be provided on request.
- i. The results of the meeting shall be recorded as well as the rationale for any decisions made. A copy of this is to be forwarded to Rehabilitation Services Bureau and original filed with the District VR Program Manager; client's lawyer or representative shall also be furnished a copy on request. Records shall include the issues raised and discussed by both sides, evidence used and proposed findings, decisions or opinions. Client's case file will contain the facts and findings of the review.
- j. All those participating in the review shall be advised that confidential information is involved and confidentiality must be observed. If non VR individuals are present, the client should be asked to sign an authorization for release of personal information before proceeding. Client consent should never be presumed. Medical or psychological data obtained from third party may not be released without express authorization from that party. All other rules of confidentiality contained in federal regulations must be observed.
- k. If the client remains dissatisfied with the results of an administrative review, the client may request a hearing.
- l. The RSB Chief, as administrator of the single state agency, (per CFR 1361.46) acknowledges the Appeals Bureau under the Department's Deputy Director as his designee to represent him in hearings, reserving the right, however, under R6 4-304(C), reconsideration, to request a reconsideration of the hearing officer's decision by the Director.
- B. Fair hearings:**
1. Filing of appeal.
 - a. A request for a hearing shall be filed in writing with the Department or provider within fifteen calendar days after the mailing date of the decision letter.
 - b. Except as otherwise provided by Statute or by Department regulation, any appeal, application, request, notice, report, or other information or document submitted to the Department shall be considered received by and filed with the Department.
 - i. If transmitted via the United States Postal Service, or its successor, on the date it is mailed. The mailing date will be as follows:
 - (1) As shown by the postmark;
 - (2) In the absence of a postmark the postage meter mark of the envelope in which it is received;
 - (3) If not postmarked or postage meter marked, or if the mark is illegible, the date entered on the document as the date of completion.
 - ii. If transmitted by any means other than the United States Postal Service or its successor, on the date it is received by the Department.
 - iii. The submission of any appeal, application, request, notice, report, or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to Department error or misinformation, or to delay or other action of the United States Postal Service or its successor.
 - iv. Any notice, determination, decision, or other data mailed by the Department shall be considered as having been given to the addressee to whom it is directed on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date of the notice, determination, decision, or other date unless otherwise indicated by the facts. Computation of time shall be made in accordance with rule 6(a) of the rules of Civil Procedure, 16 A.R.S.
 - e. Benefits shall not be reduced or terminate prior to a hearing decision unless such is due to a subsequent change in household eligibility and/or another notice of adverse action is received and not timely appealed.
 - d. The local office or provider shall advise the client of any community legal services available and, when requested, shall assist in completing the hearing request.
 2. Notice of hearing.
 - a. Hearings will be held at the local office or any other place mutually agreed upon by the hearing officer and appellant. They shall be scheduled not less than twenty, nor more than thirty, days from the date of filing of the request for hearing. The appellant shall be given no less than 15 days notice of hearing except that the appellant may waive the notice period or request a delay.
 - b. The notice of hearing shall inform the appellant of the date, time, and place of the hearing, the name of the hearing officer, the issues involved, and of his rights to: present his case in person or through a representative; examine and copy any documents in the Department's possession which pertain to the issue prior to the hearing; obtain assistance from the local office in preparing his case; and of his opportunity to make inquiry at the local office about the availability of community legal resources which could provide representation at the hearing.

- e. Appellant, in lieu of a personal appearance, may submit a written statement, under oath or affirmation, setting forth the facts of the case provided that the statement is submitted to the Department prior to or at the time of the hearing. All parties shall be ready and present with all witnesses and documents at the time and place specified in the notice of hearing, and shall be prepared at such time to dispose of all issues and questions involved in the appeal.
 - d. The hearing officer may take such action for the proper disposition of an appeal as he deems necessary, and on his own motion, or at the request of any interested party upon a showing of good cause may continue the hearing to a future time or reopen a hearing before a decision is final to take additional evidence. If an interested party fails to appear at a scheduled hearing, the hearing officer may adjourn the hearing to a later date, or may make his decision upon the record, and such evidence as may be presented at the scheduled hearing. If within ten days of the scheduled hearing, appellant files a written application requesting reopening of the proceedings, and establishes good cause for failure to appear at the scheduled hearing, the hearing shall be rescheduled. Notice of the time, place, and purpose of any continued, reopened, or rescheduled hearing shall be given to all interested parties.
3. Pre hearing summary.
 - a. A pre hearing summary of the facts and grounds for the action taken shall be prepared and forwarded to the hearing officer no less than four days prior to the hearing.
 - b. The summary shall be provided to the appellant prior to the commencement of the hearing.
 4. The hearing officer may subpoena any witnesses or documents requested by the Department or claimant to be present at the hearing. The request shall be in writing and shall state the name and address of the witness and the nature of his testimony. The nature of the witnesses testimony must be relevant to the issues of the hearing, otherwise the hearing officer may deny the request. The request for the issuance of a subpoena shall be made to give sufficient time, a minimum of three working days, prior to the hearing. A subpoena requiring the production of records and documents shall specifically describe them in detail and further set forth the name and address of the custodian thereof.
 5. Review of file. In the presence of a Department representative, the appellant and/or his authorized representative shall be permitted to review, obtain, or copy any Department record necessary for the proper presentation of the case.
 6. Conduct of the hearing.
 - a. Hearings shall be conducted in an orderly and dignified manner.
 - b. Hearings are opened, conducted and closed by the hearing officer who shall rule on the admissibility of evidence, and shall direct the order of proof. He shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses; the production of books, papers, correspondence, memoranda, and other records he deems necessary as evidence in connection with a hearing.
 - c. Evidence not related to the issue shall not be allowed to become a part of the record.
 - d. The hearing officer may, on his own motion, or at the request of the appellant or Department representative, exclude witnesses from the hearing room.
 - e. The worker, supervisor, or other appropriate person may be designated Department representative for the hearing.
 - f. The appellant and Department representative may testify, present evidence, and cross-examine witnesses and present arguments.
 - g. The appellant may appear for himself or be represented by an attorney or any other person he designates.
 - h. A full and complete record shall be kept of all proceedings in connection with an appeal, and such records shall be open for inspection by any interested party. A transcript of the proceedings need not, however, be made unless it is required by the Director for further proceedings. When a transcript has been made for further proceedings, a copy shall be furnished without cost to each interested party.
 7. Hearing decision.
 - a. The hearing decision shall be rendered exclusively on the evidence and testimony produced at the hearing and Department rules governing the issues in dispute.
 - b. The decision shall set forth the pertinent facts involved, the conclusions drawn from such facts, the sections of applicable law or rule, the decision and the reasons therefor. A copy of such decision, together with an explanation of the appeal rights, shall be delivered or mailed to each interested party and their attorneys of record not more than sixty days from the date of filing the request for appeal, unless the delay was caused by the appellant.
 - c. In those cases where the local office must take additional action as a result of a decision, such action must be taken immediately.
 - d. All decisions in favor of the appellant apply retroactively to the date of the action being appealed, or to the date the hearing officer specifically finds appropriate.
 - e. When a hearing decision upholds the proposed action of reducing, suspending, or terminating a grant, an overpayment is the result.
 - f. All hearing decisions will be made accessible to the public, subject to meeting the provision for safeguarding confidential information relating to the client.
 - g. Decision of the hearing officer will be the final decision of the Department unless a reconsideration is requested in accordance with Section I.
 - h. Pursuant to A.R.S. § 36-563(C), Bureau of Mental Retardation decisions shall become final upon issuance of an order of the Director.
 8. Withdrawal of appeal.
 - a. An appeal may be withdrawn as follows:
 - i. Voluntary withdrawal. This may be accomplished by completing and signing the proper Department form, or by submitting a letter properly signed.
 - ii. Abandonment or involuntary withdrawal. This occurs when an appellant fails to appear at a scheduled hearing and within ten days thereof fails to request a rescheduled hearing, or fails to appear at a rescheduled hearing which he has

requested. A hearing may not be considered abandoned if the claimant provides notification up to the time of the hearing that he is unable, due to good cause, to keep the appointment and that he still wishes a hearing.

C. Reconsideration:

1. An appellant, within ten calendar days after the decision was mailed or otherwise delivered to him, may request the Director to review the decision. (Exception, see R6-4-304(A)(3)(e)) The request shall be in writing and should set forth a statement of the grounds for review and may be filed personally or by mail.
2. After receipt of the request, the Director shall:
 - a. Remand the case for rehearing, specifying the nature of any additional evidence required and/or issues to be considered, or
 - b. Decide the appeal on the record.
3. The Director shall promptly adopt his decision which shall be the final decision of the Department. A copy of the decision, together with a statement specifying the rights for judicial review, shall be distributed to each interested party.

R6-4-405. Confidentiality Repealed

A. Definitions:

1. "Client information." Client information, written or otherwise, includes all medical, psychological, social, personal, financial, vocational and evaluative information which Vocational Rehabilitation acquires in the VR process.
2. "Informed consent of client." Informed consent is never presumed. A complete and signed authorization indicates "informed consent" in most cases. An authorization for release of information must include the following:
 - a. From whom the information is being requested;
 - b. The recipient of the information and his/her relationship to the client;
 - c. The type of information being requested;
 - d. The purpose for which information is being requested;
 - e. The duration for which client consent is being given;
 - f. An assurance, signed by the individual requesting the information, that information received will be treated as confidential and will not be used contrary to the expressed intent of the request.
3. "Primary source information." All that information which Vocational Rehabilitation acquired through personal interaction with client and evaluations and reports done at counselor's request and written specifically for VR.
4. "Secondary source information." All that information which Vocational Rehabilitation acquired from other sources but not originally done for or intended for Vocational Rehabilitation use.
5. "Direct administration of a client's rehabilitation program." Sharing information under the following circumstances constitutes sharing information in the direct administration of a rehabilitation program:
 - a. To assist in the diagnostic process; i.e., sharing existing medical and psychological information with other specialists on an as needed basis;
 - b. To develop an appropriate program of services; i.e., sharing such information as necessary or appropriate with rehabilitation facilities or other vendors who may become providers of rehabilitation services;
 - c. To search out and obtain similar benefit resources; i.e., sharing information with any similar benefit resource but only for the express purpose of determining eligibility for such similar benefits;
 - d. To ensure success of an IWRP (Program of Services); i.e., sharing information on a "need to know" basis with service providers and within the constraints of B.(below) to ensure the success of a Program of Services;
 - e. To assist the client in finding and obtaining or retaining employment; i.e., sharing such information with the (prospective) employer as is necessary to obtain, retain, or ensure suitable placement;
 - f. To provide continuity of services; i.e., sharing client information with other state VR personnel or between states as necessary to ensure continuity and consistency in Agency dealings with the individual.
6. "Individualized Written Rehabilitation Program (IWRP)." That part of the individual client case file which contains the program of services and all basic understandings and assurances including client's consent to release of information in the administration of a rehabilitation program, and an assurance that otherwise client information will be held confidential.
7. "Client's representative." In the context of this Section, "representative" is an individual, so designated by the client, who is competent to handle personal client information and will do so responsibly for the benefit of the client.

B. Sharing client information in direct administration of VR program. VR counselor may release client information of which we are either primary or secondary source (without separate written authorization) to other individuals or agencies in the direct administration of a client's rehabilitation program as long as only necessary information is shared and that in the counselor's judgment, recipient can and will handle information in confidential manner. Consent for this release is given by client when he signs an application for services (see IWRP).

C. Answering requests for client information from clients or other individuals:

1. Information of which VR is not the primary source is only released in direct administration of a client's rehabilitation program. Requestors should be asked to contact the original source for secondary source information in possession of VR.
2. VR may release client information of which VR is primary source (other than under B. above) with client's informed written consent to only those other individuals or agencies who can give satisfactory assurance that information will be used only for the purpose for which it is provided, and that it will not be released to anyone else. In the adjudication of an individual's claim for Social Security or SSI benefits, Disability Certification Section has free access to primary source client information. VR counselors have free access to Disability Certification Section client information in the administration of a rehabilitation program.
3. With informed written consent of the client, federal regulations allow release of information (besides the IWRP which does not require special consent) to the client or, as appropriate, his parent, guardian or other representative. This shall be done with extreme care and may only be authorized by the counselor. The counselor will not normally copy actual medical, psychological or social reports to give to client. Such may be provided to the client's representative with proper written authorizations from client. It is advised, however, that the counselor dictate letters explaining Vocational Rehabilitation involvements in a general way

- when such information is requested by the client. Copies of such letters are placed in client's case folder. Interpretations of technical psychological or medical data shall only be provided by the originator of the report.
4. Client has a right to copies of his IWRP and shall be given such.
 5. With informed consent, information shall be made available for review (but not to be removed from client file or copies without subpoena) to such client, parent, guardian or other representative for purposes in connection with any proceeding or action for benefits or damage, including any proceeding or action against any public agency provided
 - a. That only such information as is relevant to the needs of the client shall be released, and
 - b. In the case of medical or psychological information, the knowledge of which may be harmful to the client, such information will be released to the parent, guardian or other representative of the client by the state agency or to the client by a physician or by a licensed or certified psychologist. The psychologist or medical VR consultant or the examiner should be consulted to determine whether information may be harmful.
 6. Information shall be released to an organization or individual engaged in research only for purposes directly connected with the administration of the State Vocational Rehabilitation program and only if the organization or individual furnishes satisfactory assurance that the information will be used only for the purpose for which it is provided; that it will not be released to persons not connected with the study under consideration; and that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency.
 7. In any case, where client's informed consent is in doubt and/or when information may be damaging, such as during litigation with client as defendant, counselor is advised to not release personal client information even with a signed authorization for such release. In such an instance, the information may be subpoenaed.
 8. All client information released shall be stamped CONFIDENTIAL.
- D.** Vocational Rehabilitation requesting information on clients from others:
1. Information being requested must have direct relevance to establishing client's eligibility and to the success of client's rehabilitation program. Counselor must be selective in his approach to information gathering.
 2. Request for information must be as specific as possible (fulfill the criteria as set in R6 4-305(A)(2)).
- E.** Informing client about confidentiality:
1. The client shall be told at the beginning of his/her relationship with Vocational Rehabilitation that records will be held confidential but also that there are limits to that confidentiality; e.g., client files may be subpoenaed in whole or in part and contents used in court.
 2. The client shall also be told both at the beginning of relationship with counselor and any other time as necessary that:
 - a. The counselor must report any ongoing or future illegal activity to proper authorities, especially if it involves possible injury to other individuals or damage to property. That not doing so might make him/her legally accessories to the crime.
 - b. The counselor himself/herself may be subpoenaed and questioned in court in which case he must answer questions honestly and truthfully on the order of the judge.
 3. When counselor is aware that client may be or may become in violation of the law, the counselor must inform the client of this and the possible consequences.
 4. Counselor should know that counselor-client relationship is not protected by privileged communication laws in the same way that the doctor-patient, lawyer-client or clergyman-penitent relationship is.
- F.** Client files shall not contain information which the client does not want known beyond the client-counselor relationship. Moreover, if the client wants to reveal the details of an illegal act or source of information, the counselor should interrupt the client and advise him that he is interested only in the effects of such activity, not the act itself.
- G.** Client files must be kept in such a way that no unauthorized individual will have access to them. An unauthorized individual is anyone who is not directly connected with the administration of the rehabilitation program. All non-professional VR staff who have access to the client's records will be thoroughly briefed concerning the confidentiality standards to be observed.
- H.** When a client/applicant is involved in litigation and has an attorney, the rehabilitation counselor shall inform the client's attorney of Agency involvement and plans for providing services.
- I.** Subpoena of Vocational Rehabilitation counselor or client records:
1. Counselors receiving subpoenas must contact their supervisor and the Department's Legal Section immediately for assistance.
 2. To provide full protection of the counselor, any subsequent legal actions taken by the VR counselor shall be on instruction from Legal Section.
 3. Secondary source information such as medical or psychological data obtained from another agency shall not be released without advice from Legal Section even under subpoena. The counselor should explain that this information should be secured from the original source. SSA information shall never be released, even under subpoena 42 U.S.C. 1306(a).
- J.** All client information is the property of the Department and shall be used in conformance with the regulations and policies stated in this Section.

NOTICES OF FINAL RULEMAKING

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

The final published notice includes a preamble and text of the rules as filed by the agency.

Economic Impact Statements are not published but are filed by the agency with their final notice.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to item #5 to contact the person charged with the rulemaking.

The codified version of these rules will be published in the *Arizona Administrative Code*.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES**

[R24-309]

PREAMBLE

1. Permission to proceed with this final rulemaking was granted under A.R.S. § 41-1039 by the governor on:
August 23, 2024

<u>2. Article, Part, or Sections Affected (as applicable)</u>	<u>Rulemaking Action</u>
R9-25-101	Amend
R9-25-201	Amend
R9-25-301	Amend
R9-25-302	Amend
R9-25-304	Amend
R9-25-305	Amend
R9-25-401	Amend
R9-25-403	Amend
R9-25-404	Amend
R9-25-407	Amend
R9-25-408	Amend
R9-25-409	Amend

3. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
Authorizing statute: A.R.S. §§ 36-132(A)(1), 36-136(G)
Implementing statute: A.R.S. §§ 36-2201, 36-2202, 36-2204

4. The effective date of the rule:
December 31, 2024 (*immediately upon filing with the Office of the Secretary of State*)

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

The Department requests an immediate effective date, according to A.R.S. § 41-1032(A)(1) and (4), to ensure that these rules go into effect before the related rule in A.A.C. R9-25-908(C)(5)(b), with a delayed effective date of January 1, 2025, goes into effect. The new rules will improve public health and safety, as well as provide a benefit to the public and regulated entities. Some aspects of the rulemaking are also less stringent than those requirements in the current rules. Once approved, the Department plans to file the Notice so as to give regulated entities as much time as possible to prepare to implement the changes.

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

Not applicable

5. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the current record of the final rule:
Notice of Rulemaking Docket Opening: 30 A.A.R. 435, March 8, 2024
Notice of Proposed Rulemaking: 30 A.A.R. 2259, July 12, 2024

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

Name: Rachel Zenuk Garcia, Bureau Chief
Address: Arizona Department of Health Services
Bureau of Emergency Medical Services and Trauma System
150 N. 18th Ave., Suite 540
Phoenix, AZ 85007-3248
Telephone: (602) 364-3150
Fax: (602) 364-3568
Email: Rachel.Garcia@azdhs.gov
or
Name: Stacie Gravito, Office Chief
Address: Arizona 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
Email: Stacie.Gravito@azdhs.gov

7. 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.) § 36-2202 requires the Arizona Department of Health Services (Department) to certify and recertify emergency medical care technicians (EMCTs). A.R.S. § 36-2204(1) and (3) require the Department to adopt statewide standardized training, certification and recertification standards, and standardized continuing education criteria for all classifications of EMCTs. The Department has adopted standards and criteria that pertain to training for EMCTs and their certification in 9 A.A.C. 25, Articles 3 and 4. After receiving rulemaking approval pursuant to A.R.S. § 41-1039, the Department is amending the rules in 9 A.A.C. 25 to address issues identified in a five-year-review report for these two Articles, as well as to address statutory changes. To implement Laws 2022, Ch. 381, and Laws 2024, Ch. 128, the Department is revising the rules to address training requirements for Emergency Medical Responders. To implement Laws 2023, Ch. 43, changes are being made to address military reciprocity. In addition, both Articles 3 and 4 will be revised to include requirements related to critical care Paramedics, as stated in a recent rulemaking that included the rules in 9 A.A.C. 25, Article 9.

8. 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.

9. 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

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

The Department anticipates that the rulemaking may affect the Department; certified training programs and their staff, including training program directors; emergency medical services providers and ambulance services, including their administrative medical directors; emergency medical care technicians (EMCTs) and applicants for certification or critical care endorsement, including students in certified training programs; individuals desiring to function as an Emergency Medical Responder (EMR), including students in certified training programs; 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 \$20,000, and substantial when \$20,000 or greater in additional costs or revenues. A cost is listed as significant when meaningful or important, but not readily subject to quantification.

The Department anticipates that adding requirements for training programs for EMRs and to prepare a Paramedic to obtain a critical care endorsement from the Department may cause the Department to incur up to minimal increased costs to review the new training program course content and to provide technical assistance about the new rules. New requirements for an EMCT to notify the Department if the EMCT has had certification or licensure as a health professional, as defined in A.R.S. 36-3201, suspended or revoked may also cause the Department to incur minimal increased costs. Other changes in the new rules are expected to provide a significant benefit to the Department.

Clarification of the requirements in Article 3 is expected to provide a significant benefit to certified training programs. A certified training program that chooses to run one or both of the new types of training courses may incur up to substantial costs to establish and run the course, but may also receive up to a substantial increase in revenue from the students enrolling in the course. Changes allowing for virtual or asynchronous training and for the use of a simulated patient are expected to provide a significant benefit to a certified training program. The new requirement to attest their good standing with the Arizona Corporation Commission or the Arizona School Boards Association or Arizona Board of Private Postsecondary Education, as applicable, may cause a training program that is in good standing to incur a minimal cost from the time it may take to make the attestation. However, a training program that is not in good standing may incur up to a substantial decrease in revenue if the Department learns this and certification is affected.

Emergency medical services providers and ambulance services are the largest employers of EMCTs, and potentially EMRs, in Arizona. The new rules specify requirements for an administrative medical director approving an individual to function as an EMR for

an emergency medical services provider to ensure competency and provide oversight. The Department believes that the new requirements could cause an emergency medical services provider or their administrative medical director to incur as much as a moderate increase in costs, but may also provide a significant benefit in terms of risk reduction and liability. Having the opportunity to employ an EMR may help alleviate some staffing shortages, especially in rural areas. The new pathway for endorsement of a Paramedic to provide critical care services may increase the number of qualified individuals needed to handle critical care transports. An emergency medical services provide or ambulance service may incur as much as minimal costs, if underwriting the training or examination for an employed Paramedic, and may receive a minimal-to-substantial benefit from having a larger number of individuals qualified as EMRs or Paramedics with a critical care endorsement, depending on the use made of the opportunity. Reimbursement for transports staffed by a critical care Paramedic may also be higher.

According to A.R.S. § 36-2201(16), an individual may function as an EMR through two pathways: successfully completing an appropriated training program or through the approval by an emergency medical services provider's administrative medical director. The rules provide parameters relating to both pathways to help ensure the health and safety of patients. The Department believes that these requirements may cause an individual registering for an EMR training course to incur minimal costs and may provide a significant and up-to-substantial benefit if the individual obtains employment as an EMR on the basis of requirements in the rules.

The Department believes that clarifications in the rules may provide a significant benefit to an EMCT. Changes made to comply with Laws 2023, Ch. 43, related to training received during military service are expected to provide up to a substantial benefit to applicants for certification as an EMCT. If an EMCT has a professional license or certification suspended, revoked, or voluntarily surrendered in Arizona or another state, the EMCT could sustain up to a substantial loss of revenue if the cause of the suspension, revocation, or surrender results in the revocation or suspension by the Department of the EMCT's certification as an EMCT. The pathway for endorsement of a Paramedic to provide critical care services may cause a Paramedic to incur minimal costs if planning to obtain the endorsement, but a Paramedic with a critical care endorsement may receive a higher salary than a Paramedic without an endorsement and, thus, receive up to a substantial benefit from the rule changes.

Patients and their families may receive a significant benefit from the rule changes, which may help to ensure that EMRs and Paramedics have the knowledge and skills to provide services within their scopes of practice. Having the potential for additional qualified individuals available for employment by emergency medical services providers and ambulance services may shorten the response time for getting to a patient. Having Paramedics with a higher level of training may also improve the care that can be provided to a patient in the pre-hospital environment. Since any member of the public may become a patient or the family member of a patient, the Department anticipates that the general public will receive a significant benefit from the rules changes, which were developed to improve the functioning of the EMS system in Arizona.

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

The correction of a typographical error in R9-25-404(C)(3)(c)(iii) made between the proposed rulemaking and the final rulemaking.

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

No written or oral comments were received about the rulemaking since the filing of the Notice of Proposed Rulemaking. No stakeholders attended the Oral Proceeding.

13. 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:

The Department believes the certification as an EMCT issued to an individual is a general permit in that certification specifies the individual and the services the individual is authorized by certification to provide, but a certified individual is not limited to providing the services in any one location. The certification of a training program is authorized under A.R.S. § 36-2204(1) and (3), and the Department issues a specific permit under A.R.S. § 41-1037(A)(2) and (3), since the facilities at a specific location factor into the qualifications of the training program.

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 based on state statutes rather 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 business competitiveness analysis was received by the Department.

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

Not applicable

15. 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 rules were not previously made, amended, or repealed through emergency rulemaking.

16. The full text of the rules follows:

TITLE 9. HEALTH SERVICES**CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES****ARTICLE 1. GENERAL**

Section
R9-25-101. Definitions (Authorized by A.R.S. §§ 36-2201, 36-2202, 36-2204, and 36-2205)

ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION

Section
R9-25-201. Administrative Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))

ARTICLE 3. TRAINING PROGRAMS

Section
R9-25-301. Application for Certification (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))
R9-25-302. Administration (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (4), and 36-2204(1) and (3))
R9-25-304. Course and Examination Requirements (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (4), and 36-2204(1), (2), and (3))
R9-25-305. Supplemental Requirements for Specific Courses (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (4), and 36-2204(1) and (3))

ARTICLE 4. EMCT CERTIFICATION

Section
R9-25-401. EMCT General Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (6), and (7))
R9-25-403. Application Requirements for EMCT Certification or Paramedic Endorsement for Providing Critical Care Services (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (H) and 36-2204(1) and (6))
R9-25-404. Application Requirements for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), (B), and (H) and 36-2204(1), (4), and (6))
R9-25-407. Notification Requirements (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(2), (A)(3), and (A)(4), 36-2204(1) and (6), and 36-2211)
R9-25-408. Unprofessional Conduct; Physical or Mental Incompetence; Gross Incompetence; Gross Negligence (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H), 36-2204(1), (6), and (7), and 36-2211)
R9-25-409. Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H), 36-2204(1), (6), and (7), and 36-2211)

ARTICLE 1. GENERAL**R9-25-101. Definitions (Authorized by A.R.S. §§ 36-2201, 36-2202, 36-2204, and 36-2205)**

In addition to the definitions in A.R.S. § 36-2201, the following definitions apply in this Chapter, unless otherwise specified:

1. “Administer” or “administration” means to directly apply or the direct application of an agent to the body of a patient by injection, inhalation, ingestion, or any other means and includes adjusting the administration rate of an agent.
2. “AEMT” has the same meaning as “advanced emergency medical technician” in A.R.S. § 36-2201.
3. “Agent” means a chemical or biological substance that is administered to a patient to treat or prevent a medical condition.
4. “ALS” has the same meaning as “advanced life support” in A.R.S. § 36-2201.
5. “ALS base hospital” has the same meaning as “advanced life support base hospital” in A.R.S. § 36-2201.
6. “Applicant” means a person requesting certification, licensure, approval, or designation from the Department under this Chapter.
7. “BLS” has the same meaning as “basic life support” in A.R.S. § 36-2201.
8. “Chain of custody” means the transfer of physical control of and accountability for an item from one individual to another individual, documented to indicate the:
 - a. Date and time of the transfer,
 - b. Integrity of the item transferred, and
 - c. Signatures of the individual relinquishing and the individual accepting physical control of and accountability for the item.
9. “Chief administrative officer” means:
 - a. For a hospital, the same as in A.A.C. R9-10-101; and
 - b. For a training program, an individual assigned to act on behalf of the training program by the body organized to govern and manage the training program.
10. “Clinical training” means experience and instruction in providing direct patient care in a health care institution.
11. “Controlled substance” has the same meaning as in A.R.S. § 32-1901.
12. “Course” means didactic instruction and, if applicable, hands-on practical skills training, clinical training, or field training provided by a training program to prepare an individual to become or remain EMR or an EMCT.
13. “Course session” means an offering of a course, during a period of time designated by a training program certificate holder, for a specific group of students.
14. “Current” means up-to-date and extending to the present time.
15. “Day” means a calendar day.

- 16. "Document" or "documentation" means signed and dated information in written, photographic, electronic, or other permanent form.
- 17. "Drug" has the same meaning as in A.R.S. § 32-1901.
- 18. "Electronic signature" has the same meaning as in A.R.S. § 44-7002.
- 19. "EMCT" has the same meaning as "emergency medical care technician" in A.R.S. § 36-2201.
- 20. EMR" has the same meaning as "emergency medical responder" in A.R.S. § 36-2201.
- ~~20-21.~~ "EMT" has the same meaning as "emergency medical technician" in A.R.S. § 36-2201.
- ~~21-22.~~ "EMT-I(99)" means an individual, other than a Paramedic, who:
 - a. Was certified as an EMCT by the Department before January 28, 2013 to perform ALS, and
 - b. Has continuously maintained the certification.
- ~~22-23.~~ "EMS" has the same meaning as "emergency medical services" subsections ~~(17)(a)~~ (18)(a) through (d) in A.R.S. § 36-2201.
- ~~23-24.~~ "Field training" means emergency medical services experience and training outside of a health care institution or a training program facility.
- ~~24-25.~~ "General hospital" has the same meaning as in A.A.C. R9-10-101.
- ~~25-26.~~ "Health care institution" has the same meaning as in A.R.S. § 36-401.
- ~~26-27.~~ "Hospital" has the same meaning as in A.A.C. R9-10-101.
- ~~27-28.~~ "In use" means in the immediate physical possession of an EMCT and readily accessible for potential imminent administration to a patient.
- ~~28-29.~~ "Infusion pump" means a device approved by the U.S. Food and Drug Administration that, when operated mechanically, electrically, or osmotically, releases a measured amount of an agent into a patient's circulatory system in a specific period of time.
- ~~29-30.~~ "Interfacility transport" means an ambulance transport of a patient from one health care institution to another health care institution.
- ~~30-31.~~ "IV" means intravenous.
- ~~31-32.~~ "Locked" means secured with a key, including a magnetic, electronic, or remote key, or combination so that opening is not possible except by using the key or entering the combination.
- ~~32-33.~~ "Medical direction" means administrative medical direction or on-line medical direction.
- ~~33-34.~~ "Medical record" has the same meaning as in A.R.S. § 36-2201.
- ~~34-35.~~ "Minor" means an individual younger than 18 years of age who is not emancipated.
- ~~35-36.~~ "Monitor" means to observe the administration rate of an agent and the patient's response to the agent and may include discontinuing administration of the agent.
- ~~36-37.~~ "On-line medical direction" means emergency medical services guidance or information provided to an EMCT by a physician through two-way voice communication.
- ~~37-38.~~ "Patient" means an individual who is sick, injured, or wounded and who requires medical monitoring, medical treatment, or transport.
- ~~38-39.~~ "Pediatric" means pertaining to a child.
- ~~39-40.~~ "Person" has the same meaning as in A.R.S. § 1-215 and includes governmental agencies.
- ~~40-41.~~ "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
- ~~41-42.~~ "Practical nurse" has the same meaning as in A.R.S. § 32-1601.
- ~~42-43.~~ "Practicing emergency medicine" means acting as an emergency medicine physician in a hospital emergency department.
- ~~43-44.~~ "Prehospital incident history report" has the same meaning as in A.R.S. § 36-2220.
- ~~44-45.~~ "Refresher challenge examination" means a test given to an individual to assess the individual's knowledge, skills, and competencies compared with the national education standards established for the applicable EMCT classification level.
- ~~45-46.~~ "Refresher course" means a course intended to reinforce and update the knowledge, skills, and competencies of an individual who has previously met the national educational standards for a specific level of EMS personnel.
- ~~46-47.~~ "Registered nurse" has the same meaning as in A.R.S. § 32-1601.
- ~~47-48.~~ "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
- ~~48-49.~~ "Scene" means the location of the patient to be transported or the closest point to the patient at which an ambulance can arrive.
- ~~49-50.~~ "Special hospital" has the same meaning as in A.A.C. R9-10-101.
- ~~50-51.~~ "STR skill" means "Specialty Training Requirement skill," a medical treatment, procedure, or technique or administration of a medication for which an EMCT needs specific training beyond the training required in 9 A.A.C. 25, Article 4 in order to perform or administer.
- ~~51-52.~~ "Transfer of care" means to relinquish to the control of another person the ongoing medical treatment of a patient.
- ~~52-53.~~ "Transport agent" means an agent that an EMCT at a specified level of certification is authorized to administer only during interfacility transport of a patient for whom the agent's administration was started at the sending health care institution.

ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION

R9-25-201. Administrative Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))

- A. An emergency medical services provider or ambulance service shall:
 - 1. Except as specified in subsection (B) or (C), designate a physician as administrative medical director who meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
 - c. Has emergency medicine certification issued by the American Osteopathic Board of Emergency Medicine;
 - d. Has emergency medicine certification issued by the American Board of Physician Specialties;

- e. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - f. Is an emergency medicine physician in an emergency department located in Arizona and has current certification in:
 - i. Advanced emergency cardiac life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association;
 - ii. Advanced emergency trauma life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American College of Surgeons; and
 - iii. Pediatric advanced emergency life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association;
2. If the emergency medical services provider or ambulance service designates a physician as administrative medical director according to subsection (A)(1), notify the Department in writing:
 - a. Of the identity and qualifications of the designated physician within 10 days after designating the physician as administrative medical director; and
 - b. Within 10 days after learning that a physician designated as administrative medical director is no longer qualified to be an administrative medical director; and
 3. Maintain for Department review:
 - a. A copy of the policies, procedures, protocols, and documentation required in subsection (E); and
 - b. Either:
 - i. The name, e-mail address, telephone number, and qualifications of the physician providing administrative medical direction on behalf of the emergency medical services provider or ambulance service; or
 - ii. If the emergency medical services provider or ambulance service provides administrative medical direction through an ALS base hospital or a centralized medical direction communications center, a copy of a written agreement with the ALS base hospital or centralized medical direction communications center documenting that the administrative medical director is qualified under subsection (A)(1).
- B.** Except as provided in R9-25-502(A)(3), if an emergency medical services provider or ambulance service provides only BLS, the emergency medical services provider or ambulance service is not required to have an administrative medical director.
- C.** If an emergency medical services provider or ambulance service provides administrative medical direction through an ALS base hospital or a centralized medical direction communications center, the emergency medical services provider or ambulance service shall ensure that the ALS base hospital or centralized medical direction communications center designates a physician as administrative medical director who meets one of the requirements in subsections (A)(1)(a) through (f).
- D.** An emergency medical services provider or ambulance service may provide administrative medical direction through an ALS base hospital certified according to R9-25-203(C), if the emergency medical services provider or ambulance service:
1. Uses the ALS base hospital for administrative medical direction only for patients who are children, and
 2. Has a written agreement for the provision of administrative medical direction with an ALS base hospital that meets the requirements in R9-25-203(B)(1) or a centralized medical direction communications center.
- E.** An emergency medical services provider or an ambulance service shall ensure that:
1. An EMCT receives administrative medical direction as required by A.R.S. Title 36, Chapter 21.1 and this Chapter;
 2. Protocols are established, documented, and implemented by an administrative medical director, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that include:
 - a. A communication protocol for:
 - i. How and from what sources an EMCT requests and receives on-line medical direction,
 - ii. When and how an EMCT notifies a health care institution of the EMCT's intent to transport a patient to the health care institution, and
 - iii. What procedures an EMCT follows in the event of a communications equipment failure;
 - b. A triage protocol for:
 - i. How an EMCT assesses and prioritizes the medical condition of a patient,
 - ii. How an EMCT selects a health care institution to which a patient may be transported,
 - iii. How a patient is transported to the health care institution, and
 - iv. When on-line medical direction is required;
 - c. A treatment protocol for:
 - i. How an EMCT performs a medical treatment on a patient or administers an agent to a patient, and
 - ii. When on-line medical direction is required while an EMCT is providing treatment; and
 - d. A protocol for the transfer of information to the emergency receiving facility for:
 - i. What information is required to be communicated to emergency receiving facility staff concurrent with the transfer of care and by what method, including the condition of the patient, the treatment provided to the patient, and the patient's response to the treatment;
 - ii. What information is required to be documented on a prehospital incident history report; and
 - iii. The time-frame, which is associated with the transfer of care, for completion and submission of a prehospital incident history report;
 3. Policies and procedures are established, documented, and implemented by an administrative medical director, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that:
 - a. Are consistent with an EMR's or EMCT's scope of practice, as specified in Table 5.1;
 - b. Cover for an EMCT:
 - i. Medical recordkeeping;
 - ii. Medical reporting, including to whom and by what method medical reporting is accomplished;
 - iii. Completion and submission of prehospital incident history reports;

- iv. Obtaining, storing, transferring, and disposing of agents to which an EMCT has access including methods to:
 - (1) Identify individuals authorized by the administrative medical director to have access to agents,
 - (2) Maintain chain of custody for controlled substances, and
 - (3) Minimize potential degradation of agents due to temperature extremes;
- v. Administration, monitoring, or assisting in patient self-administration of an agent;
- vi. Monitoring and evaluating an EMCT's compliance with treatment protocols, triage protocols, and communications protocols specified in subsection (E)(2);
- vii. Monitoring and evaluating an EMCT's compliance with medical recordkeeping, medical reporting, and prehospital incident history report requirements;
- viii. Monitoring and evaluating an EMCT's compliance with policies and procedures for agents to which the EMCT has access;
- ix. Monitoring and evaluating an EMCT's competency in performing skills authorized for the EMCT by the EMCT's administrative medical director and within the EMCT's scope of practice, as specified in Table 5.1;
- x. Ongoing education, training, or remediation necessary to maintain or enhance an EMCT's competency in performing skills within the EMCT's scope of practice, as specified in Table 5.1;
- xi. The process by which administrative medical direction is withdrawn from an EMCT; and
- xii. The process for reinstating an EMCT's administrative medical direction; ~~and~~
- c. Cover for an EMR:
 - i. If applicable, the process and criteria for the administrative medical director to approve an individual to function as an EMR for the emergency medical services provider, according to A.R.S. § 36-2201(16), including:
 - (1) Verifying that the individual has documentation of hands-on training in cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations;
 - (2) Ensuring that the individual has competency in using an automated external defibrillator;
 - (3) Ensuring that the individual has competency in using noninvasive diagnostic devices; and
 - (4) Ensuring that the individual has competency in obtaining a patient's blood pressure, pulse, and respiratory rate.
 - ii. Monitoring and evaluating an EMR's competency in performing skills authorized for the EMR by the EMR's administrative medical director and within the EMR's scope of practice, as specified in Table 5.1;
 - iii. Ongoing education, training, or remediation necessary to maintain or enhance an EMR's competency in performing skills within the EMR's scope of practice, as specified in Table 5.1;
 - iv. If applicable, the process by which the administrative medical director may withdraw approval of the individual to function as an EMR; and
 - v. If applicable, the process for reinstating the administrative medical director's approval of the individual to function as an EMR; and
- e-d. Include a quality assurance process to evaluate the effectiveness of the administrative medical direction provided to EMCTs;
- 4. Protocols in subsection (E)(2) and policies and procedures in subsection (E)(3) are reviewed annually by the administrative medical director and updated as necessary;
- 5. Requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter are reviewed annually by the administrative medical director; ~~and~~
- 6. The Department is notified in writing no later than ten days after the date:
 - a. Administrative medical direction is withdrawn from an EMCT; or
 - b. An EMCT's administrative medical direction is reinstated; ~~and~~
- 7. If the emergency medical services provider's administrative medical director had approved an individual to function as an EMR for the emergency medical services provider, according to A.R.S. § 36-2201(16) and subsection (E)(3)(c)(i), the Department is notified no later than ten days after the date the administrative medical director:
 - a. Withdraws approval of the individual to function as an EMR, or
 - b. Reinstates approval of the individual to function as an EMR.
- F. An administrative medical director for an emergency medical services provider or ambulance service shall ensure that:
 - 1. An EMCT for whom the administrative medical director provides administrative medical direction:
 - a. Has access to at least the minimum supply of agents required for the highest level of service to be provided by the EMCT, consistent with requirements in Article 5 of this Chapter;
 - b. Administers, monitors, or assists in patient self-administration of an agent according to the requirements in policies and procedures; and
 - c. Has access to a copy of the policies and procedures required in subsection (F)(2) while on duty for the emergency medical services provider or ambulance service;
 - 2. Policies and procedures for agents to which an EMCT has access:
 - a. Specify that an agent is obtained only from a person:
 - i. Authorized by law to prescribe the agent, or
 - ii. Licensed under A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23 to dispense or distribute the agent;
 - b. Cover chain of custody and transfer procedures for each supply of agents, requiring an EMCT for whom the administrative medical director provides administrative medical direction to:
 - i. Document the name and the EMCT certification number or employee identification number of each individual who takes physical control of the supply of agents;
 - ii. Document the time and date that each individual takes physical control of the supply of agents;

- iii. Inspect the supply of agents for expired agents, deteriorated agents, damaged or altered agent containers or labels, and depleted, visibly adulterated, or missing agents upon taking physical control of the supply of agents;
- iv. Document any of the conditions in subsection (F)(2)(b)(iii);
- v. Notify the administrative medical director of a depleted, visibly adulterated, or missing controlled substance;
- vi. Obtain a replacement for each affected agent in subsection (F)(2)(b)(iii) for which the minimum supply is not present; and
- vii. Record each administration of an agent on a prehospital incident history report;
- c. Cover mechanisms for controlling inventory of agents and preventing diversion of controlled substances; and
- d. Include that an agent is kept inaccessible to all individuals who are not authorized access to the agent by policies and procedures required under subsection (E)(3)(b)(iv)(1) and, when not being administered, is:
 - i. Secured in a dry, clean, washable receptacle;
 - ii. While on a motor vehicle or aircraft registered to the emergency medical services provider or ambulance service, secured in a manner that restricts movement of the agent and the receptacle specified in subsection (F)(2)(d)(i); and
 - iii. If a controlled substance, in a hard-shelled container that is difficult to breach without the use of a power cutting tool and:
 - (1) Locked inside a motor vehicle or aircraft registered to the emergency medical services provider or ambulance service,
 - (2) Otherwise locked and secured in such a manner as to deter misappropriation, or
 - (3) On the person of an EMCT authorized access to the agent;
- 3. The Department is notified in writing within 10 days after the administrative medical director receives notice, as required subsection (F)(2)(b)(v), that any quantity of a controlled substance is depleted, visibly adulterated, or missing; and
- 4. Except when the emergency medical services provider or ambulance service obtains all agents from an ALS base hospital pharmacy, which retains ownership of the agents, agents to which an EMCT has access are obtained, stored, transferred, and disposed of according to policies and procedures; A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; 4 A.A.C. 23; and requirements of the U.S. Drug Enforcement Administration.
- G. An administrative medical director may delegate responsibilities to an individual as necessary to fulfill the requirements in this Section, if the individual is:
 - 1. Another physician,
 - 2. A physician assistant,
 - 3. A registered nurse practitioner,
 - 4. A registered nurse,
 - 5. A Paramedic, or
 - 6. An EMT-I(99).

ARTICLE 3. TRAINING PROGRAMS

R9-25-301. Application for Certification (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. To apply for certification as a training program, an applicant shall submit an application to the Department, in a Department-provided format, including:
 - 1. The applicant's name, address, and telephone number;
 - 2. The name, telephone number, and e-mail address of the applicant's chief administrative officer;
 - 3. The name of each course the applicant plans to provide;
 - 4. Attestation that the applicant has the equipment and facilities that meet the requirements established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references for the courses specified in subsection (A)(3);
 - 5. The name, telephone number, and e-mail address of the training program medical director;
 - 6. The name, telephone number, and e-mail address of the training program director;
 - 7. If the applicant is a business organization, an attestation that business organization is active and in good standing with the Arizona Corporation Commission;
 - 8. If the applicant is an educational institution, an attestation that the educational institution is in good standing with the Arizona School Boards Association or the Arizona Board of Private Postsecondary Education;
 - ~~7-9.~~ Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and 9 A.A.C. 25;
 - ~~8-10.~~ Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - ~~9-11.~~ The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B. An applicant may submit to the Department a copy of an accreditation report if the applicant is currently accredited by a national accrediting organization.
- C. The Department shall certify a training program if the applicant:
 - 1. Has not operated a training program that has been decertified by the Department within five years before submitting the application,
 - 2. Submits an application that is complete and compliant with requirements in this Article, and
 - 3. Has not knowingly provided false information on or with an application required by this Article.
- D. The Department:
 - 1. Shall assess a training program at least once every 24 months after certification to determine ongoing compliance with the requirements of this Article; and
 - 2. May inspect a training program according to A.R.S. § 41-1009:
 - a. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079, or

- b. As necessary to determine compliance with the requirements of this Article.
- E. The Department shall approve or deny an application under this Article according to Article 12 of this Chapter.
- F. A training program certificate is valid only for the name of the training program certificate holder and the courses listed by the Department on the certificate and may not be transferred to another person.
- R9-25-302. Administration (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (4), and 36-2204(1) and (3))**
- A. A training program certificate holder shall ensure that a training program medical director:
1. Is a physician or exempt from physician licensing requirements under A.R.S. §§ 32-1421(A)(7) or 32-1821(3);
 2. Meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties,
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine,
 - c. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or
 - d. Is an emergency medicine physician in an emergency department located in Arizona and has current certification that meets the requirements in ~~R9-25-201(A)(1)(d)(i) through (iii)~~ R9-25-201(A)(1)(f)(i) through (iii); and
 3. Before the start date of a course session, reviews the course content outline and final examinations to ensure consistency with, as applicable:
 - a. ~~the~~ The national educational standards for the applicable EMCT classification level; or
 - b. Either:
 - i. The national educational standards for an EMR, or
 - ii. The topics specified in A.R.S. § 36-2201(17).
- B. A training program certificate holder shall ensure that a training program director:
1. Is one of the following:
 - a. A physician with at least two years of experience providing emergency medical services as a physician;
 - b. A doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction with at least two years of experience providing emergency medical services as a doctor of allopathic medicine or osteopathic medicine;
 - c. An individual who meets the definition of registered nurse in A.R.S. § 32-1601 with at least two years of experience providing emergency medical services as a registered nurse;
 - d. A physician assistant with at least two years of experience providing emergency medical services as a physician assistant; or
 - e. An EMCT with at least two years of experience at that classification of EMCT, only for courses to prepare an individual for certification or recertification at the same or lower classification level of EMCT;
 2. Has completed 24 hours of training related to instructional methodology including:
 - a. Organizing and preparing materials for didactic instruction, clinical training, field training, and skills practice;
 - b. Preparing and administering tests and practical examinations;
 - c. Using equipment and supplies;
 - d. Measuring student performance;
 - e. Evaluating student performance;
 - f. Providing corrective feedback; and
 - g. Evaluating course effectiveness;
 3. Supervises the day-to-day operation of the courses offered by the training program;
 4. Supervises and evaluates the lead instructor for a course session;
 5. Monitors the training provided by all preceptors providing clinical training or field training; and
 6. Does not participate as a student in a course session, take a refresher challenge examination, or receive a certificate of completion for a course given by the training program.
- C. A training program certificate holder shall:
1. Maintain with an insurance company authorized to transact business in this state:
 - a. A minimum single claim professional liability insurance coverage of \$500,000, and
 - b. A minimum single claim general liability insurance coverage of \$500,000 for the operation of the training program; or
 2. Be self-insured for the amounts in subsection (C)(1).
- D. A training program certificate holder shall ensure that policies and procedures are:
1. Established, documented, and implemented covering:
 - a. Student enrollment, including verification that a student has proficiency in reading at the 9th grade level and meets all course admission requirements;
 - b. Maintenance of student records and medical records, including compliance with all applicable state and federal laws governing confidentiality, privacy, and security; and
 - c. For each course offered:
 - i. Student attendance requirements, including leave, absences, make-up work, tardiness, and causes for suspending or expelling a student for unsatisfactory attendance;
 - ii. Grading criteria, including the minimum grade average considered satisfactory for continued enrollment and standards for suspending or expelling a student for unsatisfactory grades;
 - iii. Administration of final examinations; and
 - iv. Student conduct, including causes for suspending or expelling a student for unsatisfactory conduct;
 2. Reviewed annually and updated as necessary; and
 3. Maintained on the premises and provided to the Department at the Department's request.

R9-25-304. Course and Examination Requirements (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (4), and 36-2204(1),

(2), and (3))

- A. For each course provided, a training program director shall ensure that:
1. The required equipment and facilities established for the course are available for use;
 2. The following are prepared and provided to course applicants before the start date of a course session:
 - a. A description of requirements for admission, course content, course hours, course fees, and course completion, including whether the course prepares a student for:
 - i. ~~A~~ For a national certification organization examination for ~~the~~ a specific EMCT classification level,
 - ii. ~~A~~ For a statewide standardized certification test under the state certification process, ~~or~~
 - iii. ~~Recertification~~ For recertification at a specific EMCT classification level, ~~or~~
 - iv. To function as an EMR;
 - b. A list of books, equipment, and supplies that a student is required to purchase for the course;
 - c. Notification of eligibility for the course as specified in ~~R9-25-305(B), (D)(1) and (2), or (F)(1) and (2)~~ R9-25-305(D), (F), (G)(1) and (2), (I)(1) and (2), or (K)(1) and (2), as applicable;
 - d. Notification of any specific requirements for a student to begin any component of the course, including, as applicable:
 - i. Prerequisite knowledge, skill, and abilities;
 - ii. Physical examinations;
 - iii. Immunizations;
 - iv. Documentation of freedom from infectious tuberculosis;
 - v. Drug screening; and
 - vi. The ability to perform certain physical activities; and
 - e. The policies for the course on student attendance, grading, student conduct, and administration of final examinations, required in R9-25-302(D)(1)(c)(i) through (iv);
 3. Information is provided to assist ~~a~~ an EMCT student to:
 - a. Register for and take an applicable national certification organization examination;
 - b. Complete application forms for registration in a national certification organization; and
 - c. Complete application forms for certification under 9 A.A.C. 25, Article 4;
 4. A lead instructor is assigned to each course session who:
 - a. Is one of the following:
 - i. A physician with at least two years of experience providing emergency medical services;
 - ii. A doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction with at least two years of experience providing emergency medical services;
 - iii. An individual who meets the definition of registered nurse in A.R.S. § 32-1601 with at least two years of experience providing emergency medical services;
 - iv. A physician assistant with at least two years of experience providing emergency medical services; or
 - v. An EMCT with at least two years of experience at that classification of EMCT, only for courses to prepare an individual;
 - (1) ~~for~~ For certification or recertification at the same or lower EMCT classification level, or
 - (2) To function as an EMR;
 - b. Has completed training related to instructional methodology specified in R9-25-302(B)(2);
 - c. Except as provided in subsection (A)(4)(d), is available for student-instructor interaction during all course hours established for the course session; and
 - d. Designates an individual who meets the requirements in subsections (A)(4)(a) and (b) to be ~~present~~ available and act as the lead instructor when the lead instructor is not ~~present~~ available; and
 5. Clinical training and field training are provided:
 - a. Under the supervision of a preceptor who has at least two years of experience providing emergency medical services and is one of the following:
 - i. An individual licensed in this or another state or jurisdiction as a doctor of allopathic medicine or osteopathic medicine;
 - ii. An individual licensed in this or another state or jurisdiction as a registered nurse;
 - iii. An individual licensed in this or another state or jurisdiction as a physician assistant; or
 - iv. An EMCT, only for courses to prepare an individual;
 - (1) ~~for~~ For certification or recertification at the same or lower EMCT classification level, or
 - (2) To function as an EMR;
 - b. Consistent with the clinical training and field training requirements established for the course; and
 - c. If clinical training or field training ~~are~~ is provided by a person other than the training program certificate holder, under a written agreement with the person providing the clinical training or field training that includes a termination clause that provides sufficient time for a student to complete the training upon termination of the written agreement.
- B. A training program director may combine the students from more than one course session for didactic instruction.
- C. For a final examination or refresher challenge examination for each course offered, a training program director shall ensure that:
1. The final examination or refresher challenge examination for the course is completed onsite at the training program or at a facility used for course instruction;
 2. Except as provided in subsection (D), the final examination or refresher challenge examination for a course includes a:
 - a. Written test:
 - i. With one absolutely correct answer, two incorrect answers, and one distractor, none of which is “all of the above” or “none of the above”;
 - ii. With 150 multiple-choice questions for the:

- (1) Final examination for a refresher course, or
- (2) Refresher challenge examination for a course;
- iii. That covers the learning objectives of the course with representation from all topics covered by the course; and
- iv. That requires a passing score of 75% or higher in no more than three attempts for a final examination and no more than one attempt for a refresher challenge examination; and
- b. Comprehensive practical skills, hands-on test:
 - i. For a course preparing an individual for EMCT certification:
 - (1) Evaluating the student's technical proficiency in skills consistent with the national education standards for the applicable EMCT classification level, and
 - ~~ii.~~(2) Reflecting the skills necessary to pass a national certification organization examination at the applicable EMCT classification level; or
 - ii. For a course preparing an individual to function as an EMR, evaluating the student's technical proficiency in skills consistent with the topics in A.R.S. § 36-2201(17):
- 3. The identity of each student taking the final examination or refresher challenge examination is verified;
- 4. A student does not receive verbal or written assistance from any other individual or use notes, books, or documents of any kind as an aid in taking the examination;
- 5. A student who violates subsection (C)(4) is not permitted to complete the examination or to receive a certificate of completion for the course or refresher challenge examination; and
- 6. An instructor who allows a student to violate subsection (C)(4) or assists a student in violating subsection (C)(4) is no longer permitted to serve as an instructor.
- D. A training program director shall ensure that a standardized certification test for a student under the state certification process includes:
 - 1. A written test that meets the requirements in subsection (C)(2)(a); and
 - 2. Either:
 - a. A comprehensive practical skills test that meets the requirements in subsection (C)(2)(b), or
 - b. An attestation of practical skills proficiency on a Department-provided form.
- E. A training program director shall ensure that:
 - 1. A student is allowed no longer than six months after the date of the last day of classroom instruction for a course session to complete all course requirements,
 - 2. There is a maximum ratio of four students to one preceptor for the clinical training portion of a course, and
 - 3. There is a maximum ratio of one student to one preceptor for the field training portion of a course.
- F. A training program director shall:
 - 1. For a student who completes a course, issue a certificate of completion containing:
 - a. Identification of the training program,
 - b. Identification of the course completed,
 - c. The name of the student who completed the course,
 - d. The date the student completed all course requirements,
 - e. Attestation that the student has met all course requirements, and
 - f. The signature or electronic signature of the training program director and the date of signature or electronic signature; and
 - 2. For an individual who passes a refresher challenge examination, issue a certificate of completion containing:
 - a. Identification of the training program,
 - b. Identification of the refresher challenge examination administered,
 - c. The name of the individual who passed the refresher challenge examination,
 - d. The date or dates the individual took the refresher challenge examination,
 - e. Attestation that the individual has passed the refresher challenge examination, and
 - f. The signature or electronic signature of the training program director and the date of signature or electronic signature.

R9-25-305. Supplemental Requirements for Specific Courses (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (4), and 36-2204(1) and (3))

- A.** For the purposes of this Section, "contact hour" means a 60-minute period during which a student is:
- 1. For didactic instruction, in a classroom situation and receiving instruction, with the lead instructor for the course, as specified in R9-25-304(A)(4), or a designee, according to R9-25-304(A)(4)(d);
 - 2. For practical skills training, in a classroom situation and receiving instruction, with the lead instructor for the course, as specified in R9-25-304(A)(4), or a designee, according to R9-25-304(A)(4)(d), present on-site; and
 - 3. For clinical training or field training, with the student's preceptor, according to R9-25-304(A)(5)(a), and receiving supervised, one-on-one interaction with a patient or, if necessary, simulated patient.
- B.** A training program certificate holder shall ensure that, for a course to prepare an individual to provide services as an EMR, the course:
- 1. Covers the knowledge, skills, and competencies established for an emergency medical responder program, as defined in A.R.S. § 36-2201(17);
 - 2. Has a minimum course length of 75 hours, including:
 - a. A minimum of 70 contact hours of didactic instruction and practical skills training, and
 - b. A minimum of five contact hours of clinical training and field training, with at least five patient or simulated patient interactions; and
 - 3. Has no more than 24 students enrolled in each session of the course.
- A-C.** Except as specified in subsection (B), a A training program certificate holder shall ensure that a certification course offered by the training program:

1. Covers knowledge, skills, and competencies comparable to the national education standards established for a specific EMCT classification level;
 2. Prepares a student for:
 - a. A national certification organization examination for the specific EMCT classification level, or
 - b. A standardized certification test under the state certification process;
 3. Has no more than 24 students enrolled in each session of the course; and
 4. Has a minimum course length of:
 - a. For an EMT certification course, 130 hours, including:
 - i. A minimum of 120 contact hours of didactic instruction and practical skills training, and
 - ii. A minimum of 10 contact hours of clinical training and field training, with at least 10 patient or simulated patient interactions;
 - b. For an AEMT certification course, 244 hours, including:
 - i. A minimum of 100 contact hours of didactic instruction and practical skills training, and
 - ii. A minimum of 144 contact hours of clinical training and field training; and
 - c. For a Paramedic certification course, 1000 hours, including:
 - i. A minimum of 500 contact hours of didactic instruction and practical skills training, and
 - ii. A minimum of 500 contact hours of clinical training and field training.
- ~~B-D.~~** A training program director shall ensure that, in addition to the requirements in subsection (C), for an AEMT certification course or a Paramedic certification course, a student has one of the following:
1. Current certification from the Department as an EMT or higher EMCT classification level,
 2. Documentation of completion of prior training in an EMT course or a course for a higher EMCT classification level provided by a training program certified by the Department or an equivalent training program, or
 3. Documentation of current registration in a national certification organization at the EMT classification level or higher EMCT classification level.
- ~~C-E.~~** A training program director shall ensure that for a course to prepare an EMT-I(99) for Paramedic certification:
1. A student has current certification from the Department as an EMT-I(99);
 2. The course covers the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references;
 3. The minimum course length is 600 hours, including:
 - a. A minimum of 220 contact hours of didactic instruction and practical skills training, and
 - b. A minimum of 380 contact hours of clinical training and field training; and
 4. A minimum of 60 contact hours of training in anatomy and physiology are completed by the student:
 - a. As a prerequisite to the course,
 - b. As preliminary instruction completed at the beginning of the course session before the didactic instruction required in subsection ~~(C)(34)(a)~~ (E)(3)(a) begins, or
 - c. Through integration of the anatomy and physiology material with the units of instruction required in subsection ~~(C)(34)~~ (E)(3).
- ~~E.~~** A training program director shall ensure that for a course to prepare a Paramedic for an additional endorsement to provide critical care services:
1. A student has:
 - a. Current certification from the Department as a Paramedic, and
 - b. Worked for at least two years as a Paramedic;
 2. The course:
 - a. Covers the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references;
 - b. Prepares a student for a national certification organization examination in critical care paramedicine; and
 - c. Has no more than 24 students enrolled in each session of the course; and
 3. The minimum course length is 200 hours, including:
 - a. A minimum of 135 contact hours of didactic instruction and practical skills training in:
 - i. Critical care transport;
 - ii. Patient assessment and safety;
 - iii. Advanced pharmacology;
 - iv. Advanced hemodynamics;
 - v. Neurologic, obstetric, and medical emergencies;
 - vi. Mechanical ventilation and airway management;
 - vii. Flight physiology, safety, and transport;
 - viii. Interpretation of laboratory values; and
 - ix. Sepsis; and
 - b. A minimum of 40 contact hours of clinical training and 25 contact hours of field training, which may include the use of high-fidelity patient simulators, life-like manikins that mimic human body functions and provide physiologically accurate reactions to procedures.
- ~~D-G.~~** A training program director shall ensure that for an EMT refresher course:
1. A student has one of the following:
 - a. Current certification from the Department as an EMT or higher EMCT classification level,
 - b. Documentation of completion of prior training in an EMT course or a course for a higher EMCT classification level provided by a training program certified by the Department or an equivalent training program,

- c. Documentation of current registration in a national certification organization at the EMT classification level or higher EMCT classification level, or
- d. Documentation from a national certification organization requiring the student to complete the EMT refresher course to be eligible to apply for registration in the national certification organization;
2. A student has documentation of current certification in adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs;
3. The EMT refresher course covers the knowledge, skills, and competencies in the national education standards established at the EMT classification level;
4. No more than 32 students are enrolled in each session of the course; and
5. The minimum course length is 24 contact hours.

~~F.H.~~ A training program authorized to provide an EMT refresher course may administer a refresher challenge examination covering materials included in the EMT refresher course to an individual eligible for admission into the EMT refresher course.

~~F.I.~~ A Except as provided in subsection (K), a training program director shall ensure that for an ALS refresher course:

1. A student has one of the following:
 - a. Current certification from the Department as an AEMT, an EMT-I(99), or a Paramedic;
 - b. Documentation of completion of a prior training course, at the AEMT classification level or higher, provided by a training program certified by the Department or an equivalent training program;
 - c. Documentation of current registration in a national certification organization at the AEMT or Paramedic classification level; or
 - d. Documentation from a national certification organization requiring the student to complete the ALS refresher course to be eligible to apply for registration in the national certification organization;
2. A student has documentation of current certification, completed before beginning the ALS refresher course, in:
 - a. Adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs; and
 - b. For a student who has current certification as an EMT-I(99) or higher level of EMCT classification, advanced emergency cardiac life support;
3. The ALS refresher course covers:
 - a. For a student who has current certification as an AEMT or documentation of completion of prior training at an AEMT classification level, the knowledge, skills, and competencies in the national education standards established for an AEMT;
 - b. For a student who has current certification as an EMT-I(99), the knowledge, skills, and competencies established according to A.R.S. § 36-2204 for an EMT-I(99) ~~as of the effective date of this Section~~ and available through the Department at www.azdhs.gov/ems-regulatory-references; and
 - c. For a student who has current certification as a Paramedic or documentation of completion of prior training at a Paramedic classification level, the knowledge, skills, and competencies in the national education standards established for a Paramedic; ~~and~~
4. No more than 32 students are enrolled in each session of the course; and
5. The minimum course length is 48 contact hours.

~~G.I.~~ A training program authorized to provide an ALS refresher course may administer a refresher challenge examination covering materials included in the ALS refresher course to an individual eligible for admission into the ALS refresher course.

~~K.~~ A training program director shall ensure that for a refresher course for a Paramedic with an additional endorsement to provide critical care services:

1. A student has current certification from the Department as a Paramedic with an additional endorsement to provide critical care services;
2. A student has documentation of current certification, completed before beginning the refresher course, in:
 - a. Adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs; and
 - b. Advanced emergency cardiac life support;
3. The refresher course covers the knowledge, skills, and competencies established according to A.R.S. § 36-2204 for a Paramedic with an additional endorsement to provide critical care services and available through the Department at www.azdhs.gov/ems-regulatory-references;
4. No more than 32 students are enrolled in each session of the course; and
5. The minimum course length is 60 contact hours and includes at least 8 contact hours on topics pertinent to providing critical care services.

~~L.~~ A training program authorized to provide a refresher course for a Paramedic with an additional endorsement to provide critical care services may administer a refresher challenge examination covering materials included in the refresher course to an individual eligible for admission into the refresher course.

ARTICLE 4. EMCT CERTIFICATION

R9-25-401. EMCT General Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (6), and (7))

~~A.~~ In addition to the definitions in R9-25-101, the following definition applies in this Article: “Moral turpitude” has the same meaning as in A.R.S. § 1-215.

~~A.B.~~ Except as provided in R9-25-404(E) R9-25-404(G) and R9-25-405, an individual shall not act as an EMCT unless the individual has current certification or recertification from the Department.

~~B.C.~~ An EMCT shall act as an EMCT only:

1. As authorized under the EMCT’s scope of practice as specified in Article 5 of this Chapter; and

2. For an EMCT required to have medical direction according to A.R.S. Title 36, Chapter 21.1 and R9-25-502, as authorized by the EMCT's administrative medical director under:
 - a. Treatment protocols, triage protocols, and communication protocols approved by the EMCT's administrative medical director as specified in R9-25-201(E)(2); and
 - b. Medical recordkeeping, medical reporting, and prehospital incident history report requirements approved by the EMCT's administrative medical director as specified in R9-25-201(E)(3)(b).

~~C-D.~~ Except as provided in A.R.S. § 36-2211, the Department shall certify or recertify an individual as an EMCT for a period of two years.

~~D-E.~~ An individual whose EMCT certificate is expired shall not apply for recertification, except as provided in R9-25-404(A).

~~E-E.~~ The Department shall comply with the confidentiality requirements in A.R.S. §§ 36-2220(E) and 36-2245(M).

R9-25-403. Application Requirements for EMCT Certification or Paramedic Endorsement for Providing Critical Care Services (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (H) and 36-2204(1) and (6))

- A. An individual may apply for initial EMCT certification if:
1. The individual is at least 18 years of age;
 2. The individual complies with the requirements in A.R.S. § 41-1080;
 3. The individual is not ineligible under R9-25-402; and
 4. One of the following applies to the individual:
 - a. The individual has not previously applied for certification from the Department or has withdrawn an application for certification;
 - b. An application for certification submitted by the individual was denied by the Department two or more years before the present date;
 - c. Except as provided in R9-25-404(A)(2) or (3), the individual's certification as an EMCT is expired;
 - d. The individual's certification as an EMCT was revoked by the Department five or more years before the present date; or
 - e. The individual has current certification as an EMCT and is applying for certification at a different classification level of EMCT.
- B. An applicant for initial EMCT certification shall submit to the Department an application ~~in a Department provided format~~, including:
1. ~~A form containing~~ The following information in a Department-provided format:
 - a. The applicant's name, address, telephone number, email address, date of birth, gender, and Social Security number;
 - b. The level of EMCT certification being requested;
 - c. Responses to questions addressing the applicant's criminal history according to R9-25-402(A)(1) through (3) and (C);
 - d. Whether the applicant has within the five years before the date of the application had:
 - i. EMCT certification or recertification revoked in Arizona; ~~or~~
 - ii. Certification, recertification, or licensure at an EMCT classification level revoked, suspended, or voluntarily surrendered in another state or jurisdiction; or
 - iii. Certification or licensure as a health professional, as defined in A.R.S. § 36-3201, revoked, suspended, or voluntarily surrendered in Arizona or in another state or jurisdiction;
 - e. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - f. The applicant's signature or electronic signature and date of signature;
 2. For each affirmative response to a question addressing the applicant's criminal history required in subsection (B)(1)(c), a detailed explanation ~~on a Department provided form in a Department-provided format~~ and supporting documentation;
 3. For each affirmative response to subsection (B)(1)(d), a detailed explanation ~~on a Department provided form in a Department-provided format~~ and supporting documentation;
 4. If applicable, a copy of certification, recertification, or licensure at an EMCT classification level issued to the applicant in another state or jurisdiction;
 5. ~~A copy of one of the following for the applicant:~~ Documentation for the applicant that complies with A.R.S. § 41-1080:
 - ~~a. U.S. passport, current or expired;~~
 - ~~b. Birth certificate;~~
 - ~~c. Naturalization documents; or~~
 - ~~d. Documentation of legal resident alien status; and~~
 6. One of the following:
 - ~~a. Either:~~
 - ~~i. A certificate of completion showing that within two years before the date of the application, the applicant completed statewide standardized training; and~~
 - ~~ii. A statewide standardized certification test; or~~
 - ~~b-a.~~ Documentation of current registration in a national certification organization at the applicable or higher level of EMCT classification;
 - ~~b.~~ Documentation of completion of training and testing by a branch of the U.S. Armed Forces that is comparable to requirements of a national certification organization for the applicable or higher level of EMCT classification; or
 - ~~c.~~ A certificate of completion showing that, within the two years before the date of the application, the applicant completed statewide standardized training and a statewide standardized certification test.
- C. A Paramedic applying for endorsement for providing critical care services shall submit to the Department an application, including:
1. The following information in a Department-provided format:
 - a. The applicant's name, address, telephone number, email address, date of birth, and Social Security number;
 - b. The applicant's current certification number as a Paramedic;
 - c. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - d. The applicant's signature or electronic signature and date of signature; and

2. Documentation of passing a critical care examination given by a national certification organization.

~~B-D.~~ The Department shall approve or deny an application for initial EMCT certification according to Article 12 of this Chapter.

~~C-E.~~ If the Department denies an application for initial EMCT certification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.

R9-25-404. Application Requirements for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), (B), and (H) and 36-2204(1), (4), and (6))

- A. An individual may apply for recertification at the same classification level of EMCT certification held or at a lower classification level of EMCT certification:
1. Within 90 days before the expiration date of the individual's current EMCT certification;
 2. Within the 30-day period after the expiration date of the individual's EMCT certification, as provided in subsection ~~(E)~~ (G); or
 3. Within the extension time period granted under R9-25-405.
- B. To apply for recertification, an applicant shall submit to the Department an application, ~~in a Department-provided format~~, including:
1. ~~A form containing~~ The following information in a Department-provided format:
 - a. The applicant's name, address, telephone number, email address, date of birth, and Social Security number;
 - b. The applicant's current certification number;
 - c. Responses to questions addressing the applicant's criminal history according to R9-25-402(B), (D), and (E);
 - d. Whether the applicant has within the five years before the date of the application had:
 - i. EMCT certification or recertification revoked in Arizona; ~~or~~
 - ii. Certification, recertification, or licensure at an EMCT classification level revoked, suspended, or voluntarily surrendered in another state or jurisdiction; or
 - iii. Certification or licensure as a health professional, as defined in A.R.S. § 36-3201, revoked, suspended, or voluntarily surrendered in Arizona or in another state or jurisdiction;
 - e. An indication of the classification level of EMCT certification held currently or within the past 30 days and of the classification level of EMCT certification for which recertification is requested;
 - f. If the applicant is employed, the name of the employer;
 - ~~g.~~ g. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - ~~h.~~ h. The applicant's signature or electronic signature and date of signature;
 2. For each affirmative response to a question addressing the applicant's criminal history required in subsection (B)(1)(c), a detailed explanation ~~on a Department-provided form~~ in a Department-provided format and supporting documentation;
 3. For an affirmative response to subsection (B)(1)(d), a detailed explanation ~~on a Department-provided form~~ in a Department-provided format; and
 4. For an application submitted within 30 days after the expiration date of EMCT certification, a nonrefundable certification extension fee of \$150.
- C. In addition to the application in subsection (B), an applicant for EMCT recertification shall submit one of the following to the Department:
1. A certificate of course completion issued by the training program director under R9-25-304(F) showing that within two years before the date of the application, the applicant completed either:
 - a. ~~the applicable~~ The refresher course in R9-25-305(G), (I), or (K), as applicable; or
 - b. ~~applicable~~ The refresher challenge examination in R9-25-305(H), (J), or (L), as applicable;
 2. Documentation of:
 - a. ~~current~~ Current registration in a national certification organization at the applicable or higher classification level of EMCT classification; and
 - b. For a recertifying Paramedic applying for continued endorsement for providing critical care services, current certification in critical care paramedicine by a national certification organization; or
 3. Attestation ~~on a Department-provided form~~ in a Department-provided format that the applicant:
 - a. Has documentation of current certification in adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs;
 - b. For EMT-I(99) recertification or Paramedic recertification, has documentation of current certification in advanced emergency cardiac life support;
 - c. Has documentation of having completed within the previous two years the following number of hours of continuing education in topics that are consistent with the content of the applicable refresher course:
 - i. For EMT recertification, a minimum of 24 hours;
 - ii. For AEMT recertification, EMT-I(99) recertification, or Paramedic recertification without endorsement for providing critical care services, a minimum of 48 hours;
 - iii. For Paramedic recertification and continuing endorsement for providing critical care services, a minimum of 60 hours, with at least 8 hours on topics pertinent to providing critical care services; and
 - ~~iii-iv.~~ iv. Included in the hours required in subsections (C)(3)(c)(i), ~~or (ii), or (iii),~~ as applicable, a minimum of 5 hours in pediatric emergency care; and
 - d. For EMT recertification, has functioned in the capacity of an EMT for at least 240 hours during the previous two years.
- D. An applicant who submits an attestation under subsection (C)(3) shall maintain the applicable documentation for at least three years after the date of the application.
- E. If an individual submits an application for recertification, with a certification extension fee, within 30 days after the expiration date of the individual's EMCT certification, the individual:
1. Was authorized to act as an EMCT during the period between the expiration date of the individual's EMCT certification and the date the application was submitted, and

2. Is authorized to act as an EMCT until the Department makes a final determination on the individual's application for recertification.
- F.** If an individual does not submit an application for recertification before the expiration date of the individual's EMCT certification or, with a certification extension fee, within 30 days after the expiration date of the individual's EMCT certification, the individual:
1. Is not an EMCT,
 2. Was not authorized to act as an EMCT during the 30-day period after the expiration date of the individual's EMCT certification, and
 3. May submit an application to the Department for initial EMCT certification according to R9-25-403.
- G.** The Department shall approve or deny an application for recertification according to Article 12 of this Chapter.
- H.** If the Department denies an application for recertification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.
- I.** The Department may deny, based on failure to meet the standards for recertification in A.R.S. Title 36, Chapter 21.1 and this Article, an application submitted with a certification extension fee.

R9-25-407. Notification Requirements (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(2), (A)(3), and (A)(4), 36-2204(1) and (6), and 36-2211)

- A.** No later than 30 days after the date an EMCT's name legally changes, the EMCT shall submit to the Department:
1. ~~A completed form provided by the Department containing~~ The following information in a Department-provided format:
 - a. The name under which the EMCT is currently certified by the Department;
 - b. The EMCT's address, telephone number, and Social Security number; and
 - c. The EMCT's new name; and
 2. Documentation showing that the name has been legally changed.
- B.** No later than 30 days after the date an EMCT's address or email address changes, the EMCT shall submit to the Department ~~a completed form provided by the Department containing~~ the following information in a Department-provided format:
1. The EMCT's name, telephone number, and Social Security number; and
 2. The EMCT's new address or email address.
- C.** An EMCT shall notify the Department in writing no later than 10 days after the date the EMCT:
1. Is incarcerated or is placed on parole, supervised release, or probation for any criminal conviction;
 2. Is convicted of:
 - a. A crime specified in R9-25-402(A)(2),
 - b. A misdemeanor involving moral turpitude,
 - c. A felony in this state or any other state or jurisdiction, or
 - d. A misdemeanor specified in R9-25-402(E);
 3. Has registration revoked or suspended by a national certification organization; ~~or~~
 4. Has certification, recertification, or licensure at an EMCT classification level revoked, ~~or~~ suspended, or voluntarily surrendered in another state or jurisdiction; or
 5. Has certification or licensure as a health professional, as defined in A.R.S. § 36-3201, revoked, suspended, or voluntarily surrendered in Arizona or in another state or jurisdiction.

R9-25-408. Unprofessional Conduct; Physical or Mental Incompetence; Gross Incompetence; Gross Negligence (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H), 36-2204(1), (6), and (7), and 36-2211)

- A.** For purposes of A.R.S. § 36-2211(A)(1), unprofessional conduct is an act or omission made by an EMCT that is contrary to the recognized standards or ethics of the Emergency Medical Technician profession or that may constitute a danger to the health, welfare, or safety of a patient or the public, including:
1. Impersonating an EMCT of a higher classification level of certification or impersonating a health professional as defined in A.R.S. § 32-3201;
 2. Permitting or allowing another individual to use the EMCT's certification for any purpose;
 3. Aiding or abetting an individual who is not certified according to this Chapter in acting as an EMCT or in representing that the individual is certified as an EMCT;
 4. Engaging in or soliciting sexual relationships, whether consensual or nonconsensual, with a patient while acting as an EMCT;
 5. Physically or verbally harassing, abusing, threatening, or intimidating a patient or another individual while acting as an EMCT;
 6. Making false or materially incorrect entries in a medical record or wilful destruction of a medical record;
 7. Failing or refusing to maintain adequate records on a patient;
 8. Soliciting or obtaining monies or goods from a patient by fraud, deceit, or misrepresentation;
 9. Aiding or abetting an individual in fraud, deceit, or misrepresentation in meeting or attempting to meet the application requirements for EMCT certification or EMCT recertification contained in this Article, including the requirements established for:
 - a. Completing and passing a course provided by a training program; and
 - b. The national certification organization examination process and national certification organization registration process;
 10. Providing false information or making fraudulent or untrue statements to the Department or about the Department during an investigation conducted by the Department;
 11. Being incarcerated or being placed on parole, supervised release, or probation for any criminal conviction;
 12. Being convicted of a ~~misdemeanor identified in R9-25-402(E)~~ crime specified in R9-25-407(C)(2), which has not been absolutely discharged set aside, pardoned, sealed, included on a certificate of second chance, expunged, or vacated;
 13. Having national certification organization registration revoked or suspended by the national certification organization for material noncompliance with national certification organization rules or standards; ~~and~~
 14. Having certification, recertification, or licensure at an EMCT classification level revoked or suspended in another state or jurisdiction; and

- 15. Continuing to provide services as an EMCT without notifying the Department of having certification or licensure as a health professional, as defined in A.R.S. § 36-3201, revoked, suspended, or voluntarily surrendered in Arizona or in another state or jurisdiction.
 - B. Under A.R.S. § 36-2211, physical or mental incompetence of an EMCT is the EMCT’s lack of physical or mental ability to provide emergency medical services as required under this Chapter.
 - C. Under A.R.S. § 36-2211 gross incompetence or gross negligence is an EMCT’s wilful act or wilful omission of an act that is made in disregard of an individual’s life, health, or safety and that may cause death or injury.
- R9-25-409. Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H), 36-2204(1), (6), and (7), and 36-2211)**
- A. If the Department determines that an applicant or EMCT is not in substantial compliance with applicable laws and rules, under A.R.S. §§ § 36-2204 or 36-2211, the Department may:
 - 1. Take the following action against an applicant or EMCT:
 - a. After notice is provided according to A.R.S. § 36-2211 and, if applicable, A.R.S. Title 41, Chapter 6, Article 10, issue:
 - i. A decree of censure to the EMCT, or
 - ii. An order of probation to the EMCT; or
 - b. After notice and opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10:
 - i. Deny an application,
 - ii. Suspend the EMCT’s certificate, or
 - iii. Revoke the EMCT’s certificate; and
 - 2. Assess civil penalties against the EMCT.
 - B. In determining which action in subsection (A) is appropriate, the Department shall consider:
 - 1. Prior disciplinary actions;
 - 2. The time interval since a prior disciplinary action, if applicable;
 - 3. The applicant’s or EMCT’s motive;
 - 4. The applicant’s or EMCT’s pattern of conduct;
 - 5. The number of offenses;
 - 6. Whether the applicant or EMCT failed to comply with instructions from the Department;
 - 7. Whether interim rehabilitation efforts were made by the applicant or EMCT;
 - 8. Whether the applicant or EMCT refused to acknowledge the wrongful nature of the misconduct;
 - 9. Whether the applicant or EMCT made timely and good-faith efforts to rectify the consequences of the misconduct;
 - 10. The submission of false evidence, false statements, or other deceptive practices during an investigation or disciplinary process;
 - 11. The vulnerability of a patient or other victim of the applicant’s or EMCT’s conduct, if applicable; and
 - 12. How much control the applicant or EMCT had over the processes or situation leading to the misconduct.

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT**

[R24-307]

PREAMBLE

1. Permission to proceed with this final rulemaking was granted under A.R.S. § 41-1039 by the governor on:
October 21, 2024

<u>2. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Article 4	New Article
R18-13-401	New Section
R18-13-402	New Section
R18-13-501	Amend
R18-13-702	Amend
Fee Tables	Amend
R18-13-801	Amend
Table	Amend
R18-13-1103	Amend
R18-13-1117	Amend
Article 12	Amend
R18-13-1201	Amend
R18-13-1211	Amend
R18-13-1212	Amend
R18-13-1212.01	New Section
R18-13-1213	Amend
Article 13	Amend

R18-13-1306	New Section
R18-13-1307	Amend
R18-13-1409	Amend
Table 1	Amend
Table 2	Amend
R18-13-1410	Amend
R18-13-1606	Amend
Article 19	New Article
R18-13-1901	New Section
Article 20	New Article
R18-13-2001	New Section
R18-13-2002	New Section
R18-13-2003	New Section
Article 21	Amend
R18-13-2101	Amend
R18-13-2102	Amend
R18-13-2103	Amend
R18-13-2104	New Section
Article 22	New Article
R18-13-2201	New Section
R18-13-2202	New Section

3. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: Laws 2024, 2nd Regular Session, Ch. 121

Implementing statute: A.R.S. §§ 44-1302, 44-1303, 44-1304.01, 44-1322, 49-104(B)(14)(b), 49-706, 49-747, 49-761, 49-762.03, 49-762.05, 49-802, 49-836, 49-855, and 49-857

4. The effective date of the rule:

December 24, 2024 (*immediately upon filing with the Office of the Secretary of State*)

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

Under A.R.S. § 41-1032(A)(1), the reason for the immediate effective date is to preserve public safety and protect human health and the environment by ensuring necessary funding for Solid Waste Programs (SWP) regulatory activities. This immediate effective date reflects the urgency recognized by the Legislature with the passage of HB2367 pursuant to an emergency clause for immediate enactment. Delaying the effective date would mean that the rule would not be able to take effect until January 2025 or later, seriously jeopardizing the financial viability of the program and putting SWP inspection, enforcement, and services at risk.

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

Not applicable.

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

Notice of Rulemaking Docket Opening: 30 A.A.R. 1047, Issue date: May 17, 2024, Issue number: 20, File number: R24-84

Notice of Proposed Rulemaking: 30 A.A.R. 2575, Issue date: August 16, 2024, Issue number: 33, File number: R24-152

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

Name: Matt Rippentrop
 Title: Rule Writer
 Division: Waste Programs Division
 Address: 1110 W. Washington St.
 Phoenix, AZ 85007
 Telephone: (602) 771-4329
 Email: rippentrop.matt@azdeq.gov

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

Summary: This rule adjusts existing fees and establishes new fees throughout 18 A.A.C. 13, Solid Waste Management, as authorized and required by Laws 2024, 2nd Regular Session, Ch. 121 (HB2367). This includes the incorporation of fees currently established under statute. These fee changes are necessary to address direct and administrative costs of the Arizona Department of Environmental Quality's (ADEQ) relevant duties and regulatory activities for solid waste management. ADEQ last set solid waste fees in 2012. While fees set in 2012 were a critical step towards the ultimate goal of implementing a fee-based funding model for the Solid Waste Program (SWP), more work is now necessary to fully realize this goal. Fees set in 2012 were based upon a one-

time rulemaking authority from the Legislature pursuant to Laws 2011, 1st regular session, Ch. 220 (HB2705). Any subsequent adjustment, even adjustments for inflation, would have required specific statutory authority from the Legislature. Thus, with the passage of HB2367, it was necessary to re-evaluate fees set in 2012. This rule sets fees to levels that accurately reflect current economic conditions, provides for annual adjustments based upon the Consumer Price Index to ensure fees remain current, and establishes fees more completely throughout all of A.A.C. Title 18, Chapter 13, Solid Waste Management, to ensure overall program health and fairer cost-sharing among regulated facilities and entities. The purpose of this rule is to achieve self-sufficiency of the SWP.

Description of Solid Waste Management Programs: Solid waste management is a key responsibility of the state. Solid waste management mitigates adverse health and environmental impacts and improves the viability of Arizona. Having a robust and sustainable SWP ensures the proper storage, transportation, and disposal of solid waste to prevent negative impacts to the state in forms of uncontrolled dumping and pollution of our water, land, and air. SWP regulates the management of solid waste from homes and businesses from the point of generation through transportation, and ultimately how it is recycled or disposed of.

There are approximately 2,000 solid waste facilities with different media types subject to ADEQ regulatory compliance and oversight under SWP. The scope and type of these facilities is diverse, with different waste streams, locations, sizes, communities served, facility capacity, and both regulatory and support activities required of ADEQ. These facilities include but are not limited to solid waste transfer facilities of varying size and sophistication, from rural drop-site locations to city facilities, septage hauler licensees, waste tire sites, off-site facilities registered for the treatment, storage, or disposal of Arizona special waste, special waste transporters and generators, biohazardous medical waste management entities, used oil handlers and collectors subject to the federal used oil program, facilities accepting lead acid batteries for collection or recycling, and both municipal and non-municipal landfills. These facilities are located throughout the state, requiring SWP to engage in inspection, management, and oversight in every county.

Regulatory activities for which ADEQ is responsible includes inspections, permitting and licensing programs, public records management, fielding and investigating complaints, and providing compliance assistance. Effective implementation of these regulatory activities for all solid waste facilities is the foundation for furthering the Waste Program Division's mission to protect and enhance public health and the environment by reducing the risk associated with waste management, contaminated sites, and regulated substances.

Background: SWP has long faced budget shortfalls, which have sharply increased in the last five years. Since FY2019, overall SWP's costs have increased by approximately \$1,500,000, from \$2,000,000 to \$3,500,000. In addition to other factors such as the state's rapid population growth, a major contributor to this increasingly steep budget shortfall has been inflation. Since 2012, the Phoenix metro area has experienced inflation of 48.52%. Further, for the last 12 years since fees were last set in 2012, ADEQ has not had the ability to adjust fees to account for a shifting economic landscape due to one-time rulemaking authorities, while experiencing expanded Program responsibility and greater costs related to regulatory and oversight activities. For example, since 2012, the number of regulated solid waste facilities has increased by 333% from approximately 460 facilities to 2,000 facilities.

Following the steep economic downturn in the late 2000s and resulting severe state budget shortfalls, many state programs lost funding from the Arizona General Fund. SWP is one such program. In response, and pursuant to HB2705, in 2012 ADEQ implemented a fee-based program model for the first time for SWP. While fees set in 2012 were an important step towards the goal of a fully self-funded program, HB2705 granted a one-time authority only for establishing fee levels, inhibiting the ability of ADEQ to make future adjustments as necessary. Further, fees set in 2012 covered only half of SWP statutory mandates, resulting in a large portion of mandated regulatory activities of SWP not having a source of revenue under the fee-based program. As such, SWP was unable to fully cover program costs with the fee levels established in 2012. This has resulted in continued program strain and the need to expend moneys from the Recycling Fund to cover management of solid waste regulatory programs. For the last several fiscal years, approximately half of SWP's costs have been covered by fees, while expenditure from the Recycling Fund was necessary to cover the other half. As fees remain unchanged and costs continue to rise, increasing expenditures from the Recycling Fund have become necessary in recent fiscal years.

Ultimately, while the 2012 fees represent a critical step towards full program stability, more work is necessary to realize the goal of establishing a fully self-funded and sustainable SWP. To this end, the Arizona Legislature passed and the Governor signed HB2367 on April 9, 2024, with an emergency clause for an immediate effective date. HB2367 makes amendments throughout Titles 44 and 49 of the Arizona Revised Statutes to eliminate one-time rulemaking authorities relating to fees, authorized the incorporation into rule of the existing statutory new tire sale and landfill disposal fees, and authorized rulemaking to establish new fees for regulatory services and legislative mandates currently being performed. Establishing new fees for currently regulated facilities and entities is a critical component in establishing a fully sustained fee-based program that is fairly assessed against all regulated parties. While SWP has experienced budget shortfalls for several years, it is only with HB2367 that ADEQ now has the authority and mandate to establish these new fees for currently regulated parties.

This rulemaking is critical to make SWP whole, sustainable, and secure. Further, these fees allow expenditures from the Recycling Fund to be refocused on its important mission. ADEQ intends for revenue in the Recycling Fund be used for the stated purpose of grants and contracts for "research, demonstration projects, new technologies, market development and source reduction studies and implementation of the recommendations or reports prepared." See A.R.S. § 49-837(B)(1). As SWP becomes sustainable through a more robust fee-based program, ADEQ is committed to apportioning the greatest portion feasible of the Recycling Fund towards grants and contracts and other stated uses under A.R.S. § 49-837 to further the mission of the Arizona Recycling Program.

Explanation of Fee Methodology: There are two broad groups into which fees under this rulemaking may be categorized. This first group is new fees being established by this rulemaking. These include initial registration and annual fees for transfer facilities subject to best management practices, used oil handlers, medical waste facilities that are permitted for storage or treatment, facilities generating, treating, or transporting special waste, collection and recycling facilities accepting lead acid batteries, and annual fees

for landfills that enter into post-closure care and waste tire facilities subject to plan approval. To note, those facilities subject to plan approval fees will not be subject to an initial registration fee, instead only to annual registration fees.

The second group is current fees that are subject to an adjustment under this rulemaking. This group may further be distinguished between those fees being increased by a Consumer Price Index (CPI) adjustment and those fees being increased beyond a CPI adjustment. Those fees subject to a CPI adjustment include disposal fees for petroleum contaminated soil (PCS) and auto-shredder residue, fees for plan review of solid waste facilities subject to plan review under R18-13-702, including modifications to solid waste facility plans and review of financial responsibility plans, solid waste general permit fees, annual registration fees for landfills that accept 225,000 tons or more of waste annually, and two current statutory fees being established in rule: solid waste landfill disposal fees and the fee on the sale of new tires.

Those fees subject to an adjustment beyond CPI are registration fees for solid waste landfills accepting less than 60,000 tons of waste annually, waste tire sites, including waste tire sites subject to self-certification, used tire sites, transfer stations subject to self-certification, biohazardous medical waste transporters, and septage haulers.

In determining new fees throughout Solid Waste Management, ADEQ was guided by its statutory mandates that all fees be based upon the Department’s direct and indirect costs associated with regulatory activities for the facility or entity subject to the fee and that all fees be fairly assessed and impose the least burden and cost. See A.R.S. § 49-104(B)(17). To this end, ADEQ began by reviewing the actual costs of regulatory activities to the Department for facilities under Solid Waste Management. Relevant costs are based on necessary Agency functions corresponding to regulated activities and include but are not limited to administrative operations, inspections, permitting and licensing, fielding complaints, compliance assistance, data management, and public records management. This review included calculating time and resources expended on these Agency functions to carry out regulated activities for each class of facility. After having a more complete understanding of the actual costs in oversight and enforcement for Solid Waste Management programs, ADEQ was able to develop a comprehensive fee schedule that fairly assessed fees against each class of facility or entity that is representative of the actual costs to ADEQ for carrying out regulatory activities for such facility or entity.

The development of this fee schedule began with CPI adjustments used for all existing fees. With all existing fees being over a decade old, and with those statutory fees dating back to the early 1990s, this initial CPI adjustment was a critical step as current fee levels were no longer representative of current economic conditions or costs to ADEQ. The CPI adjustment methodology for those fees dating back to 2012 utilizes the Consumer Price Index for All Urban Consumers (CPI-U) for the Phoenix-Mesa-Scottsdale, AZ Area (regional CPI). This regional CPI was selected as most representative to the costs of ADEQ, which largely operates out of Phoenix metro area. To note, this regional CPI began being calculated in 2002. For the two fees dating to the early 1990s, the landfill disposal fee and new tire sale fee, the national CPI was used. This adjustment for these fees based on the national CPI was necessary to bring these two fees to current levels as the regional CPI is not available for the full duration of these fees.

By employing these CPI adjustments to make existing fees current and reflective of subsequent inflation following establishment of the fees, ADEQ had a contemporary fee baseline from which new fees and further adjustments could be fairly assessed that would impose the least burden and cost.

Following these CPI adjustments, ADEQ evaluated Agency functions and regulatory costs for each class of facility or entity. Based on these actual costs for each class of facility or entity, ADEQ established new fees and made further adjustments to existing fees. These fees were established to both be reflective of the actual cost to ADEQ associated with carrying out the Department’s regulatory responsibilities for each class of facility or entity as well as take into consideration the relative burden these fees posed.

Each of these fees is presented in the fee tables and discussed in further detail in the section-by-section explanation to follow.

Annual CPI adjustments: This rule implements an annual regional CPI adjustment to ensure fees remain current and adequate to cover rising costs against inflation. The methodology involves multiplying the fee amount within the rule by the regional CPI as of the close of the 12-month period ending on October 30 for the most recent year, and then dividing by the regional CPI as of the close of the 12-month period ending on October 30 for the year 2024 (base year) except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year to ensure predictability and stability for those subject to the fees. The CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor available at: https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=drop-map&series_id=CUURS48ASA0,CUUSS48ASA0. The first adjustment will occur in July 2026 following the publication of the October regional CPI in 2025.

Fee Tables: below are a series of fee tables for all the fees being established, adjusted, or incorporated under this rule.

Facility Category	Current Fees	New Fees	Initial
Landfills under 60,000 tons annually	\$2,500	\$5,000	Plan Review
Landfills 60,000 tons to under 225,000 tons annually	\$7,500	\$10,000	Plan Review
Landfills 225,000 tons or more annually	\$12,500	\$18,565	Plan Review
Tire Site Subject to Plan Review	N/A	\$5,000	Plan Review
Self-certification Tire Site	\$250	\$3,000	\$3,600
Used Tire Site	\$75	\$1,500	\$1,800
Waste Tire Site	\$75	\$2,000	\$2,400

Self-certification Transfer Station	\$500	\$3,000	\$3,600
Best Management Practice Transfer Stations	N/A	\$1,500	\$1,800
Used Oil Processor	N/A	\$7,500	\$9,000
Used Oil Burner	N/A	\$12,500	\$15,000
Used Oil Transporter	N/A	\$1,500	\$1,800
Used Oil Marketer	N/A	\$1,500	\$1,800
BMW Transporter	\$750	\$1,500	\$1,800
BMW Treatment & Disposal	N/A	\$12,500	Plan Review
BMW Storage	N/A	\$7,500	Plan Review
BMW Transfer	N/A	\$3,000	Plan Review
Septage Hauler - county inspection	\$75	\$225	\$270
Septage Hauler - ADEQ inspection	\$75	\$550	\$660
Special Waste Generator of Petroleum Contaminated Soil (PCS)	N/A	\$750	\$900
Special Waste Generator of Auto Shredder Fluff (ASF)	N/A	\$3,000	\$3,600
Special Waste Shipper	N/A	\$1,500	\$1,800
Special Waste Disposal, Treatment, or Storage	N/A	\$5,000	Plan Review
Landfills in post-closure care	N/A	\$3,500	Plan Review
Lead Acid Battery Collection Site	N/A	\$675	\$810

Fees for Plan Review of New Solid Waste Facilities	Current Fees		New Fees	
	Initial	Maximum	Initial	Maximum
Solid Waste Landfills	\$20,000	\$200,000	\$20,000	\$297,047
Non-APP requirements for Non-MSWLFs operating under an APP	\$2,000	\$50,000	\$2,000	\$74,262
Other Solid Waste Facilities Subject to Plan Approval	\$10,000	\$100,000	\$10,000	\$148,524
Fees for Modifications to Solid Waste Facility Plans	Current Fees		New Fees	
	Initial	Maximum	Initial	Maximum
Solid Waste Landfills - Type IV	\$1,500	\$150,000	\$1,500	\$222,786
Solid Waste Landfills - Type III	\$750	\$75,000	\$750	\$111,393
Other Solid Waste Facilities Subject to Plan Approval - Type IV	\$750	\$75,000	\$750	\$111,393
Other Solid Waste Facilities Subject to Plan Approval - Type III	\$500	\$50,000	\$500	\$74,262
Fees for Review of Financial Responsibility Plans for Facilities	Current Fees		New Fees	
	Initial	Maximum	Initial	Maximum
Annual Review for Solid Waste Landfills	\$600	Flat Fee	\$891	Flat Fee
Other Solid Waste Facilities	\$200	\$5,000	\$200	\$7,426
Hourly Rate	Current Fees		New Fees	
	\$122	Per Hr	\$181	Per Hr

Solid Waste General Permits	Current Fees		New Fees	
	Initial Fee	Annual Fee	Initial Fee	Annual Fee
Collection, Storage and Transfer-Standard	\$750	\$100	\$1,114	\$149
Collection, Storage and Transfer-Complex	\$7,500	\$1,000	\$11,139	\$1,485

Treatment-Standard	\$1,000	\$100	\$1,485	\$149
Treatment-Complex	\$10,000	\$1,000	\$14,852	\$1,485
Disposal	\$15,000	N/A	\$22,279	N/A

Solid Waste Disposal Fees	Current Fees		New Fees	
	Fee	Unit of Measure	Fee	Unit of Measure
For Each Ton of Solid Waste	\$0.25	Per Ton	\$0.58	Per Ton
Six Cubic Yards (CY) of Uncompacted Solid Waste	\$0.25	Per CY	\$0.58	Per CY
Three Cubic Yards (CY) of Compacted Solid Waste	\$0.25	Per CY	\$0.58	Per CY
Facilities Recycling Solid Waste from Secondary Waste Water	\$0.13	Per Ton	\$0.29	Per Ton
Waste Disposed in a Solid Waste Landfill not regulated by ADEQ	\$0.25	Per Ton	\$0.58	Per Ton
Local Public Facility - Population of Political Subdivisions	\$0.07	x Population Served	\$0.16	x Population Served

Special Waste Disposal	Current Fees		New Fees	
	Fee	Unit of Measure	Initial Fee	Unit of Measure
Petroleum Contaminated Soils Disposal Fee	\$4.50	Per Ton	\$6.68	Per Ton
Auto Shredder Fluff Disposal Fee	\$4.50	Per Ton	\$6.68	Per Ton
Annual Maximum Disposal Fee per Generator Site	\$45,000	Annual Maximum	\$68,835.67	Annual Maximum

New Tire Sale	Current Fees		New Fees	
	Fee	Maximum	Fee	Maximum
	2% of retail	\$2.00/tire	2% of retail	\$4.66/tire

Implementation Schedule: In furtherance of ADEQ’s goal to ensure the fees impose the least burden and cost, ADEQ evaluated the feasibility of an implementation schedule that balances the fiscal health of SWP and the budget practices of the regulated community subject to the fees. Currently, ADEQ sends out invoices for registration fees to correspond with the calendar year. However, a recurring point of discussion throughout the rulemaking was the concern of implementing a new fee or fee increase in the middle of the fiscal year for many counties, municipalities, and other political subdivisions. In response to these concerns and comments, while the rule and fees would become effective as of January 2025, fees will be implemented pursuant to a schedule for CY2025 to accommodate the fiscal needs of counties, municipalities, and other political subdivisions.

To this end, the annual registration fee for CY2025 for increased existing fees will be divided between two separate invoices. The first invoice for this first annual registration fee will reflect current billing, with the invoice at the current fee level to be sent out in January 2025. The second invoice will be delayed until July 2025, to coincide with the fiscal year, and will be for the remaining amount of the annual registration fee, reflecting the amount already paid on the first invoice.

As an example, under R18-13-501(E), the annual registration fee for a self-certification transfer facility is increased from \$500 to \$3,000 on the effective date of the rule. ADEQ will send the facility an invoice for \$500 in January 2025 per the existing billing rate prior to the rule. Subsequently, ADEQ will send a second invoice in July 2025 for \$2,500. Thereafter, beginning in 2026, the facility will be invoiced once for \$3,000, as adjusted by regional CPI, each January to coincide with the calendar year billing cycle.

For new annual registration fees, the first annual registration fee as established under the rule will be delayed until July 2025 to coincide with the fiscal year. As an example, if a political subdivision operated a lead acid battery collection facility, a new fee of \$675 would be due “within 30 days of invoice receipt”, under R18-13-1901(B), so that the invoice will be sent on or after July 1. Following this initial billing to coincide with the fiscal year for the first year of implementation, billing will align to the calendar year billing cycle in January 2026.

In addition to adjusted and new annual registration fees, this implementation schedule includes quarterly landfill disposal and special waste tonnage fees, resulting in the disposal and tonnage fees for the first calendar quarter of 2025 at the new fee rates to coincide with the coming fiscal year, and will be invoiced on or after July 1, 2025. Following this initial billing to coincide with the fiscal year for the first quarter of 2025, quarterly billing for landfill disposal and special waste tonnage fees will return to the calendar year billing cycle.

Below are a series of tables that describe the implementation for each facility type and fee in detail:

Facility Category	Reporting Cycle	Fee	Invoice Timing
All Landfills Tonnage for Solid Waste	Q4 2024	\$0.25 per ton	March 2025
Special Waste Receiving Facilities	Q4 2024	\$4.50 per ton	March 2025
All Landfills Tonnage for Solid Waste	Q1 2025	\$0.58 per ton	July 2025
Special Waste Receiving Facilities	Q1 2025	\$6.68 per ton	July 2025
All Landfills Tonnage for Solid Waste	Q2 2025	\$0.58 per ton	September 2025
Special Waste Receiving Facilities	Q2 2025	\$6.68 per ton	September 2025
Landfills under 60,000 tons annual registration	Cal. Year 2025 Pt. 1	\$2,500	January 2025
Landfills under 60,000 tons annual registration	Cal. Year 2025 Pt. 2	\$2,500	July 2025
Landfills ≥60,000 and < 225,000 tons annual registration	Cal. Year 2025 Pt. 1	\$7,500	January 2025
Landfills ≥60,000 and < 225,000 tons annual registration	Cal. Year 2025 Pt. 2	\$2,500	July 2025
Landfills ≥225,000 tons or more annual registration	Cal. Year 2025 Pt. 1	\$12,500	January 2025
Landfills ≥225,000 tons or more annual registration	Cal. Year 2025 Pt. 2	\$6,065	July 2025
Landfills in post-closure care (New)	Calendar Year 2025	\$3,500	July 2025
Tire Site Subject to Plan Review (New)	Calendar Year 2025	\$5,000	July 2025
Self-certification Tire Site	Cal. Year 2025 Pt. 1	\$250	January 2025
Self-certification Tire Site	Cal. Year 2025 Pt. 2	\$2,750	July 2025
Used Tire Site	Cal. Year 2025 Pt. 1	\$75	January 2025
Used Tire Site	Cal. Year 2025 Pt. 2	\$1,425	July 2025
Waste Tire Site	Cal. Year 2025 Pt. 1	\$75	January 2025
Waste Tire Site	Cal. Year 2025 Pt. 2	\$1,925	July 2025
Self-certification Transfer Station	Cal. Year 2025 Pt. 1	\$500	January 2025
Self-certification Transfer Station	Cal. Year 2025 Pt. 2	\$2,500	July 2025
Best Management Practice Transfer Stations (New)	Calendar Year 2025	\$1,500	July 2025
Used Oil Processor (New)	Calendar Year 2025	\$7,500	July 2025
Used Oil Burner (New)	Calendar Year 2025	\$12,500	July 2025
Used Oil Transporter (New)	Calendar Year 2025	\$1,500	July 2025
Used Oil Marketer (New)	Calendar Year 2025	\$1,500	July 2025
Biohazardous Medical Waste (BMW) Transporter	Cal. Year 2025 Pt. 1	\$750	January 2025
BMW Transporter	Cal. Year 2025 Pt. 2	\$750	July 2025
BMW Treatment & Disposal (New)	Calendar Year 2025	\$12,500	July 2025
BMW Storage (New)	Calendar Year 2025	\$7,500	July 2025
BMW Transfer (New)	Calendar Year 2025	\$3,000	July 2025
Septage Hauler - county inspection	Cal. Year 2025 Pt. 1	\$75	January 2025
Septage Hauler - county inspection	Cal. Year 2025 Pt. 2	\$150	July 2025
Septage Hauler - ADEQ inspection (New)	Calendar Year 2025	\$550	July 2025
Special Waste Generator of Petroleum Contaminated Soil (PCS) (New)	Calendar Year 2025	\$750	July 2025
Special Waste Generator of Auto Shredder Fluff (ASF) (New)	Calendar Year 2025	\$3,000	July 2025
Special Waste Shipper (New)	Calendar Year 2025	\$1,500	July 2025
Special Waste Disposal, Treatment, or Storage Facility (New)	Calendar Year 2025	\$5,000	July 2025
Lead Acid Battery Collection Site (New)	Calendar Year 2025	\$675	July 2025

Fees for Plan Review of New Solid Waste Facilities	New Fees		Invoice Timing	
	Initial	Maximum	Reporting Cycle	Invoice Date
Solid Waste Landfills	\$20,000	\$297,047	Jan 2025 - June 2025	At time of issuance
Non-APP requirements for Non-MSWLFs operating under an APP	\$2,000	\$74,262	Jan 2025 - June 2025	At time of issuance
Other Solid Waste Facilities Subject to Plan Approval	\$10,000	\$148,524	Jan 2025 - June 2025	At time of issuance
Fees for Modifications to Solid Waste Facility Plans	New Fees		Invoice Timing	
	Initial	Maximum	Reporting Cycle	Invoice Date
Solid Waste Landfills - Type IV	\$1,500	\$222,786	Jan 2025 - June 2025	At time of issuance
Solid Waste Landfills - Type III	\$750	\$111,393	Jan 2025 - June 2025	At time of issuance
Other Solid Waste Facilities Subject to Plan Approval - Type IV	\$750	\$111,393	Jan 2025 - June 2025	At time of issuance
Other Solid Waste Facilities Subject to Plan Approval - Type III	\$500	\$74,262	Jan 2025 - June 2025	At time of issuance
Fees for Review of Financial Responsibility Plans for Facilities	New Fees		Invoice Timing	
	Initial	Maximum	Reporting Cycle	Invoice Date
Annual Review for Solid Waste Landfills	\$891	Flat Fee	Jan 2025 - June 2025	At time of submittal
Other Solid Waste Facilities	\$200	\$7,426	Jan 2025 - June 2025	At time of submittal
All Plan Reviews	New Fees		Invoice Timing	
	Initial	Maximum	Reporting Cycle	Invoice Date
Hourly Rate	\$181	Per Hour	Jan 2025 - June 2025	At time of submittal

Solid Waste Disposal Fees	New Fees		Invoice Timing	
	Fee	Unit of Measure	Reporting Cycle	Invoice Date
For Each Ton of Solid Waste	\$0.58	Per Ton	Q1 2025	July 2025
Six Cubic Yards (CY) of Uncompacted Solid Waste	\$0.58	Per CY	Q1 2025	July 2025
Three Cubic Yards (CY) of Compacted Solid Waste	\$0.58	Per CY	Q1 2025	July 2025
Facilities Recycling Solid Waste from Secondary Waste Water	\$0.29	Per Ton	Q1 2025	July 2025
Waste Disposed in a Solid Waste Landfill not regulated by ADEQ	\$0.58	Per Ton	Q1 2025	July 2025
Local Public Facility - Population of Political Subdivisions	\$0.16	x Population Served	Q1 2025	July 2025

Solid Waste General Permits	New Fees		Invoice Timing	
	Initial Fee	Annual Fee	Reporting Cycle	Invoice Date
Collection, Storage and Transfer-Standard	\$1,114	\$149	Calendar Year 2025	At time of submittal
Collection, Storage and Transfer-Complex	\$11,139	\$1,485	Calendar Year 2025	At time of submittal
Treatment-Standard	\$1,485	\$149	Calendar Year 2025	At time of submittal
Treatment-Complex	\$14,852	\$1,485	Calendar Year 2025	At time of submittal

Disposal	\$22,279	N/A	Calendar Year 2025	At time of submittal
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	New Fees		Invoice Timing	
	Fee	Unit of Measure	Reporting Cycle	Invoice Date
Petroleum Contaminated Soils Disposal Fee	\$6.68	Per Ton	Q1 2025	July 2025
Auto Shredder Fluff Disposal Fee	\$6.68	Per Ton	Q1 2025	July 2025
Annual Maximum Special Waste Disposal Fee per Generator Site	\$68,835.67	Annual Maximum	Q1 2025	July 2025

	New Fees		Reporting Date	
	Fee	Maximum	Reporting Cycle	Reporting Date
New Tire Sales	2% of retail	\$4.66/tire	Q2 2025	July 2025

Submission of Fee Increases Exceeding CPI to Joint Legislative Budget Committee: A.R.S. § 41-1008(A)(3) provides that “an agency may increase a fee in an amount that exceeds the percentage of change in the average consumer price index” if the “agency submits the fee increase to the joint legislative budget committee for review before the fee is increased.” Under this rule, seven fees are increased beyond CPI. These fees include registration fees for solid waste landfills accepting less than 60,000 tons of waste annually, waste tire sites, including waste tire sites subject to self-certification, used tire sites, transfer stations subject to self-certification, biohazardous medical waste transporters, and septage haulers.

Pursuant to this statutory requirement, ADEQ submitted these seven fees increased beyond CPI to the Joint Legislative Budget Committee for the Committee’s review.

Informal Comment: ADEQ actively facilitated informal comments and feedback from the public and stakeholders, including three stakeholder meetings held on May 30, 2024, June 20, 2024, and July 18, 2024. In these meetings ADEQ presented all new and adjusted fee amounts proposed, presented and explained draft rule text, explained the need and methodology for the annual regional CPI adjustment, and addressed and answered questions and concerns raised throughout the stakeholder engagement process, including:

- The purpose and need for post-closure care landfill fees. ADEQ explained that after a landfill closes it still requires monitoring for a period of 30 years after closure, commonly referred to as the post closure care period. During this time, the landfill must be monitored for ground water and methane levels as well as maintenance of the cap. ADEQ still has a responsibility of oversight of these activities to ensure those are being conducted. This oversight includes inspections and record management conducted by ADEQ. The annual fee during this duration is necessary for cost-recovery to ADEQ for regulatory activities conducted during this period.
- Whether used oil collection centers will be subject to fees. ADEQ responded that used oil collection centers will not be subject to fees under this rule. This rule incorporates registration requirements as they currently exist in statute into rule. Only handlers of used oil that are classified as transporters, marketers, processors, and burners are subject to these new fees.
- With the incorporation of the landfill disposal fee into rule, impact to the Recycling Fund and recycling grant program. ADEQ stated the per ton disposal fee will continue to be deposited into the Recycling Fund as it currently is. This rulemaking does not change or eliminate the Recycling Fund or recycling grant program.
- Reasoning for municipal and non-municipal landfills now being subject to the same annual registration fee under the proposed rule. ADEQ explained the fees are based on the cost to ADEQ for performing inspections, issuing permits, administrative costs, costs associated with data management, as well rule development and implementation. While the regulations can vary between operations, the costs are based on the time it takes to inspect and perform activities required of ADEQ for these sites which compare equally in Department cost.

This engagement with the public and stakeholders was a critical element in developing a fee program that is fairly assessed and presents the least burden and cost to the regulated community. For example, from discussion with stakeholders, ADEQ made the determination that lowering the annual fee for biohazardous medical waste transfer facilities from \$7,500 to \$3,000 was appropriate to mirror the fee for other types of transfer facilities engaged in activity subject to similar regulatory oversight to ensure this facility type is not subject to an unduly burdensome or disproportional fee. Another example was the decision to not adjust the initial registration fee for plan review or subject it to an annual CPI adjustment to improve clarity and ease of initial application for facilities subject to plan review. A final example is the decision to remove registration fees, both initial and annual, for composting facilities. After discussions and feedback from the regulated community, it was determined that fees at this time for composting facilities are premature and more work to develop and facilitate composting in the state is needed prior to implementing related facility fees.

A recurring point of discussion during the informal comment period was the concern of implementing a fee increase in the middle of the fiscal year for many counties, municipalities, and other political subdivisions. In response, ADEQ created an implementation schedule more compatible with the fiscal year, as discussed above.

Section by Section Explanation of Proposed Rule: Below is an explanation of the substantive provisions of each section of the rule. Underlined text in the article or section title indicates new rule language. Struck through text indicates deletion of existing rule language. Italicized Article or Section titles indicates a new article or section.

ARTICLE 4. SOLID WASTE FACILITIES SUBJECT TO BEST MANAGEMENT PRACTICES

R18-13-401. Definitions. Adds definition clarifying “Department” means the Arizona Department of Environmental Quality and definitions for “material recovery facility” and “recyclable solid waste” as those terms are used in the exemption for transfer facilities subject to best management practices in new R18-13-402.

R18-13-402. Solid Waste Facilities Subject to Best Management Practices; Fees. Establishes a new initial registration fee of \$1,800 and annual renewal fee of \$1,500 for transfer facilities with a daily throughput of 180 cubic yards or less, but not including material recovery facilities, as defined, that are currently exempted from self-certification transfer facilities under Article 5, and for waste tire sites that are subject to best management practices pursuant to A.R.S. § 49-762.02. Includes a provision that registration under R18-13-1211 as a waste tire collection site satisfies registration and fee requirements under this section for waste tire sites. Inclusion of waste tire sites under this section reflects the dual regulation of these tire sites under both Title 44 and Title 49 of the Arizona Revised Statutes.

Includes language for an annual adjustment to these fees based on the regional CPI.

ARTICLE 5. REQUIREMENTS FOR SOLID WASTE FACILITIES SUBJECT TO SELF-CERTIFICATION

R18-13-501. Solid Waste Facilities Requiring Self-Certification; Registration Fees. Removes outdated language referencing previous 2012 fee provisions. Standardizes and increases the existing initial registration and annual registration fees for transfer facilities, waste tire sites, and waste tire shredding and processing facilities subject to self-certification pursuant to A.R.S. § 49-762.01 to \$3,600 and \$3,000, respectively. Includes language for an annual adjustment to these fees based on the regional CPI.

ARTICLE 7. SOLID WASTE FACILITY PLAN REVIEW FEES

R18-13-702. Solid Waste Facility Plan Review Fees. Removes outdated language referencing previous 2012 fee provisions. Increases the maximum fee amounts in the Fee Tables for maximum fees relating to plan review, but excluding the initial fee, by the regional CPI adjustment. Increases the hourly billing rate for plan review and the annual review for solid waste landfills flat fee by the regional CPI adjustment. Eliminates the fee for modifications to solid waste facility plans for the Solid Waste Landfills – Type IV – RD&D category as ADEQ does not currently have authority to facilitate this type of plan modification.

Includes language for an annual adjustment to the maximum fees and hourly rate based on the regional CPI. The annual adjustment applies to the maximum fee amounts in the Fee Tables, the annual review for solid waste landfills flat fee, and the hourly billing rate, but does not apply to the initial plan review fees.

ARTICLE 8. GENERAL PERMITS

R18-13-801. General Permit Fees. Increases the fees for all existing general permit fees, including initial and annual, by the regional CPI adjustment. Includes language for an annual adjustment to these fees based on the regional CPI.

ARTICLE 11. COLLECTION, TRANSPORTATION, AND DISPOSAL OF HUMAN EXCRETA

R18-13-1103. General Requirements; License Fees. Removes outdated language referencing previous 2012 fee provisions. Establishes a new tiered fee structure for septage hauler license fees. New initial license fee of \$660 and annual license fee of \$550 for septage haulers whose vehicles are subject to an inspection conducted by ADEQ. Increased initial license fee of \$270 and annual license fee of \$225 for septage haulers whose vehicles are subject to an inspection conducted by a county pursuant to a delegation agreement with ADEQ. This new fee structure shall be applicable to those licensees who renew their license after the effective date of the rule. To coincide with the implementation schedule, for CY2025 the first payment of the increased fee for those septage haulers whose vehicles are inspected by the counties shall be for the current fee amount of \$75 payable through the myDEQ online portal. The second payment of this increased fee for CY2025 shall be made pursuant to an invoice sent in July 2025 to coincide with the fiscal year. The payment of the new fee for those septage haulers whose vehicles are inspected by ADEQ shall be invoiced in July 2025 in accordance with the implementation schedule for new fees.

A fee for those inspected by the county and a separate fee for those inspected by ADEQ is a two-tier system that reflects that fees be fairly assessed as there is a higher cost to ADEQ associated with conducting inspections throughout the state. This higher tier of fees is needed for proper cost-recovery to ADEQ.

Further adds new language clarifying inspections may be required for vehicle license renewal. Includes language for an annual adjustment to these fees based on the regional CPI.

R18-13-1107. Reinstatement. New subsection (B) stating that an expired or lapsed septage hauler license may be renewed by payment of the appropriate lower annual license fee instead of the higher initial license fee.

ARTICLE 12. WASTE TIRES; USED TIRES

R18-13-1201. Definitions. Adds a new definition of “waste tire collection site” as that term is defined in A.R.S. § 44-1301.

R18-13-1211. Registration of New Waste Tire Collection Sites; Fee. Removes outdated language referencing previous 2012 fee provisions. Increases the existing initial registration fee and annual registration fee for waste tire collection sites to \$2,400 and \$2,000, respectively. Includes language for an annual adjustment to these fees based on the regional CPI.

R18-13-1212. Registration of Outdoor Used Tire Sites; Fee. Removes outdated language referencing previous 2012 fee provisions. Increases the existing initial registration fee and annual registration fee for outdoor used tire sites to \$1,800 and \$1,500, respectively. Includes language for an annual adjustment to these fees based on the regional CPI.

R18-13-1212.01 Waste Tire Collection Site Subject to Plan Approval; Fees. Establishes a new annual registration fee of \$5,000 for

waste tire collection sites that are required to obtain plan approval pursuant to A.R.S. § 49-762(A)(7). Includes language for an annual adjustment to these fees based on the regional CPI.

R18-13-1213. Facilities Subject to More Than One Tire Site Registration; Single Fee. This section provides that a tire facility subject to registration under more than one section is only required to pay the registration fees for the section with the highest registration fees. This rule adds to this single-fee provision waste tire collection sites subject to plan approval under new R18-13-1212.01.

ARTICLE 13. SPECIAL WASTE AND BEST MANAGEMENT PRACTICES FOR SHREDDER RESIDUE

R18-13-1306. ~~Reserved Fees~~. New applicants for special waste identification numbers shall submit a new initial registration fee for each special waste operation, excluding special waste receiving facilities subject to plan approval: \$3,600 for a generator of shredder residue and \$1,800 for a special waste shipper. There shall be billed an annual registration fee for each class of operation: \$3,000 for a generator of shredder residue, \$5,000 for a special waste receiving facility, defined in rule as an off-site location to which special waste is sent to be treated, recycled, stored, or disposed, and \$1,500 for a special waste shipper. Solid waste landfills are exempt from these fees. Includes language for an annual adjustment to these fees based on the regional CPI.

R18-13-1307. Best Management Practices for Waste from Shredding Motor Vehicles; Fees. Increases the existing tonnage fee for shredder residue that is transported to a facility regulated by the ADEQ for treatment, storage, or disposal by the regional CPI adjustment to \$6.68. Deletes unnecessary language referring to a calculation of shredder residue received based on compacted or uncompacted cubic yard amounts as this is not a receiving calculation that is used. Instead, preserves the tonnage calculation. Increases the existing fee cap by the regional CPI adjustment to \$66,835.67. Includes language for an annual adjustment to these fees based on the regional CPI.

ARTICLE 14. BIOHAZARDOUS MEDICAL WASTE AND DISCARDED DRUGS

R18-13-1409. Transporter License; Fees; Transportation. Eliminates the current biohazardous medical waste (BMW) transporter license fee structure of hourly billing and replaces with new flat fees. Further eliminates now-obsolete provisions relating to an appeal process concerning billing amounts. The new fee structure includes an increased initial application fee of \$1,800, an increased annual fee of \$1,500, an amendment fee of \$350, and a reduced quinquennial renewal fee from \$2,000 to now match the annual fee of \$1,500. Includes language for an annual adjustment to these fees based on the regional CPI.

R18-13-1410. Storage, Transfer, Treatment, and Disposal Facilities; Facility Plan Approval; Fees. Establishes new annual registration fees for BMW storage, disposal, treatment, and transfer facilities. The annual registration fee for disposal and treatment facilities is \$12,500, for storage facilities is \$7,500, and for transfer facilities is \$3,000. Includes language for an annual adjustment to these fees based on the regional CPI.

ARTICLE 16. BEST MANAGEMENT PRACTICES FOR PETROLEUM CONTAMINATED SOIL

R18-13-1606. Fees. Increases the existing tonnage fee for the treatment, storage, or disposal facility that first receives a shipment of PCS by the regional CPI adjustment from \$4.50 to \$6.68. Increases the existing fee cap by the regional CPI adjustment to \$66,835.67. Establishes a new registration fee of \$900 and annual registration fee of \$750 for a generator of PCS. Establishes a new annual registration fee of \$5,000 for special waste receiving facilities, defined for Article 16 as a treatment, storage, or disposal waste facility that has an approved special waste management plan pursuant to A.R.S. § 49-857. Solid waste landfills are exempt from this fee. Includes language for an annual adjustment to these fees based on the regional CPI.

ARTICLE 19. LEAD ACID BATTERY RECYCLING

R18-13-1901. Collection or Recycling Facility of Lead Acid Batteries; Registration; Fees. Establishes a new registration fee of \$810 and new annual fee of \$675 for collection or recycling facilities that accept lead acid batteries. Currently existing collection or recycling facilities that accept lead acid batteries have until March 1, 2025 to register with the Department. For purposes of this section, “lead acid battery” is defined as a battery with a core of elemental lead and a capacity of six or more volts that is suitable for use in a vehicle or a boat. Includes language for an annual adjustment to these fees based on the regional CPI.

ARTICLE 20. USED OIL

The federal used oil program, 40 CFR 279, as amended on January 1, 1997, is adopted by reference for the state of Arizona pursuant to A.R.S. 49-801, *et al.* For this purpose, this rule proposes new Article 20 to reflect this incorporation. While full incorporation of the federal program as currently administered by ADEQ pursuant to statute into rule is outside the scope of this rulemaking at this time, this rule proposes new Article 20 to reflect this incorporation as appropriate for the purpose of establishing necessary fees.

R18-13-2001. Definitions. Adds definitions based on incorporation of the federal program and 40 CFR 279. Includes defining “40 CFR 279” to refer to 40 CFR part 279, as amended on January 1, 1997, and no future editions or later amendments. Incorporates federal used oil program definitions for used oil handlers and the federal used oil program definition for used oil as modified by A.R.S. § 49-801.

R18-13-2002. Used Oil Handler Registration; Fee. Establishes a new registration fee for used oil handlers, as defined, required to obtain an EPA identification number as follows: for a used oil processor, \$9,000, for a used oil burner, \$15,000, for a used oil transporter, \$1,800, and for a used oil fuel marketer, \$1,800. Establishes new annual registration fees for used oil handlers as follows: for a used oil processor, \$7,500, for a used oil burner, \$12,500, for a used oil transporter, \$1,500, and for a used oil fuel marketer, \$1,500. Includes language for an annual adjustment to these fees based on the regional CPI.

R18-13-2003. Used Oil Collection Center Identification Number; Requirements. Codifies in rule current registration requirements for used oil collection centers, as defined. This involves requesting a used oil collection center identification number pursuant to A.R.S. § 49-802(C). To note, there are no fees for used oil collection centers contemplated in this rulemaking.

ARTICLE 21. SOLID WASTE LANDFILL REGISTRATION AND DISPOSAL FEES

R18-13-2101. Definitions. Deletes the definition of “full quarter” as now obsolete given new fee structure discussed in R18-13-2102 below. Adds new definitions of “local public facility” and “recycling residue” as used within the solid waste landfill disposal fee that is incorporated from statute in R18-13-2104.

R18-13-2102. Solid Waste Landfill Registration; Annual Registration Fee for an Existing Solid Waste Landfill. Eliminates the current units of reported waste calculation methodology for municipal solid waste landfills that accept waste for only a portion of the “defined time period”, as defined. Now the amount of waste received shall be determined solely by the reported tons of solid waste received on the disposal invoice over the defined time period. Eliminates the one-time initial registration fee.

Currently there are four different tiers of fees for municipal solid waste landfills based on size as follows: for a municipal solid waste landfill receiving less than 12,000 tons during the defined time period, an annual fee of \$1,250; for the same receiving at least 12,000 tons but less than 60,000 tons, an annual fee of \$2,500; for the same receiving at least 60,000 tons but less than 225,000 tons, an annual fee of \$7,500; and for the same receiving at least 225,000 tons, an annual fee of \$12,500. Non-municipal solid waste landfills pay an annual flat fee of \$3,750 regardless of size. This rule proposes to eliminate the distinction between municipal and non-municipal for purposes of the annual registration fee under this Section and consolidate to three different tiers of fees based on size as follows: for a solid waste landfill receiving less than 60,000 tons, an annual fee of \$5,000; for the same receiving at least 60,000 tons but less than 225,000 tons, an annual fee of \$10,000; and for the same receiving at least 225,000 tons, an annual fee of \$18,565.

Currently a solid waste landfill is subject to an annual fee of \$1,250 from the time the landfill stops accepting waste until released from its obligation to provide financial assurance for closure. This rule proposes to increase this fee to \$3,500 and extend this fee period from the time the landfill stops accepting waste now until the landfill has completed closure and is released from its obligation for post-closure care. The fees during post-closure care are necessary as there are ongoing obligations and oversight that occurs during this post-closure period. This includes inspections and record management conducted by ADEQ. The annual fee is necessary for cost-recovery to ADEQ for regulatory activities conducted during this period.

Includes language for an annual adjustment to these fees based on the regional CPI.

R18-13-2104. Solid Waste Landfill Disposal Fee; Exemptions. This is the first of two fees incorporated from statute. The landfill disposal fee is currently under A.R.S. § 49-836. This proposed rule incorporates the landfill disposal fee as currently implemented under statute into rule, including reporting, calculation, and exemptions, with each component of the fee adjusted based on a national CPI adjustment. This adjustment includes increasing the solid waste landfill tonnage disposal fee from \$0.25 to \$0.58; the waste from recycling residue from \$0.13 to \$0.29 and associated maximum from \$15,000 to \$34,942.20; and the population-based disposal fee for local public facilities, as defined, from \$0.07 to \$0.16. To note: the solid waste landfill disposal fee will not be subject to an annual adjustment based on the regional CPI.

ARTICLE 22. NEW TIRE SELLERS

This is the second fee incorporated from statute. The new tire seller fee is currently under A.R.S. § 44-1302. In the same way as the landfill disposal fee, this proposed rule is intended to incorporate the new tire seller fee as currently implemented into rule, subject to a specific CPI adjustment.

R18-13-2201. Definitions. Adds definitions for “motor vehicle” and “tire seller” to define those terms as they are used and applied under the new tire seller fee in statute.

R18-13-2202. New Tire Sellers; Fee. This proposed rule incorporates the 2% fee on the sale of new tires as currently implemented under statute into rule, with fee components adjusted based on a national CPI adjustment. This fee has an implementation date of April 1, 2025 to ensure the Department of Revenue has the necessary time to prepare for the increase. This adjustment results in the increase of maximum fee per tire from \$2 to \$4.66, and from \$1 to \$2.33 for the sale by a manufacturer to a wholesaler or retailer of motor vehicles with a gross weight of under 10,000 pounds. This proposed rule preserves the \$0.10 credit per tire a seller may claim for accounting and reporting related to the fee. Further maintains as currently provided in statute that the fee shall be remitted to the Department of Revenue. Includes language for an annual adjustment to these fees based on the regional CPI.

Fees are Fairly Assessed and Impose the Least Burden and Cost: Pursuant to A.R.S. § 49-104(B)(17), ADEQ is charged with ensuring all fees “be fairly assessed and impose the least burden and cost to the parties subject to the fees” based upon an evaluation of “the direct and indirect costs of the Department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses.” This statutory mandate is reinforced by HB2367, which states in Section 17, Legislative Intent, that fees established pursuant to the bill be based upon “direct and indirect costs associated with the type of activity or facility that is assessed a fee.”

To fulfill this statutory mandate, ADEQ reviewed actual costs to the Agency in conducting inspections and regulatory oversight for each class of facility and established fee amounts to ensure fees are reflective of those costs relating to the Department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses associated with the type of activity or facility that is assessed a fee. This review and analysis were strengthened by engagement with and feedback from the regulated community and stakeholders. ADEQ's assessment and examples are discussed further below in Part 10, “Economic, Small Business, and Consumer Impact”.

Immediate Effective Date: Pursuant to A.R.S. § 41-1032(A)(1), and as stated in Part 4 of the Preamble, “Effective Date of the Rule”, ADEQ seeks an immediate effective date for these rules in order to preserve public safety and protect human health and the environment by ensuring necessary funding for SWP regulatory activities. This immediate effective date reflects the urgency recognized by the Legislature with the passage of HB2367 pursuant to an emergency clause for immediate enactment. Delaying the effective date would mean that the rule would not be able to take effect in calendar year 2024, seriously jeopardizing the financial viability of the program and putting SWP inspection, enforcement, and services at risk.

8. 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:

ADEQ did not reference any study for this proposed rule.

9. 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

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

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

Identification of the rulemaking: This rulemaking makes a number of changes to 18 A.A.C. 13, Solid Waste Management, including amendments to Articles 5, 7, 8, 11, 12, 13, 14, 16, and 21; amending Sections R18-13-501, R18-13-702, R18-13-801, R18-13-1103, R18-13-1211, R18-13-1212, R18-13-1307, R18-13-1409, R18-13-1410, R18-13-1606, R18-13-2102, and R18-13-2103, and their respective tables. Additionally, this rulemaking establishes new articles and sections, including Articles 4, 19, 20, and 22 and their respective sections, and new sections in existing Articles, including R18-13-1212.01, R18-13-1306, and R18-13-2104. The purpose of these changes is to both adjust existing fees and establish new fees throughout Solid Waste Management. This rulemaking also establishes in rule fees that currently only exist in statute.

Fees under this rulemaking can be categorized into two broad groups. One group being current fees paid by waste facilities and licensees that would be subject to an adjustment under this rulemaking. These facilities and licensees include publicly and privately-owned landfills, used and waste tire facilities, self-certification transfer facilities, biohazardous medical waste transporters, septage haulers, and special waste facilities that receive shredder residue and petroleum contaminated soil (PCS). The second group of fees are those established under this rulemaking for the first time. Facilities and entities subject to a new fee include transfer facilities subject to best management practices, used oil handlers, medical waste facilities that are permitted for storage or treatment, facilities generating or transporting special waste, landfills that enter into post-closure care, and collection and recycling facilities accepting lead acid batteries.

These rule changes are intended to collect fees to ensure the financial stability of Solid Waste Management programs, not to change the conduct of any regulated facilities or entities. The last time ADEQ undertook any substantive review and adjustments of fees within Solid Waste Management was in 2012. While fees established in 2012 represented a critical step towards the goal of full program sufficiency and stability, further work is necessary to realize this goal. Indeed, to date only half of all regulated facilities under Solid Waste Management are subject to fees for registration, inspection, and oversight notwithstanding ongoing statutory mandates.

Experience over the last several years has demonstrated the need for a comprehensive approach to fees throughout Solid Waste Management, one that promotes equal cost distribution amongst all regulated facilities and entities and ensures the financial health of Solid Waste Management as a whole for the effective and efficient carrying out of the Program's mission.

ADEQ's goal in this rulemaking is to adjust and establish fees throughout Solid Waste Management that will sustain critical programs while avoiding disproportionate impact on any one group of stakeholders or regulated entities. Currently, ADEQ's annual costs to administer all solid waste programs are estimated to total \$3.5 million per year. However, current annual registration fee revenue is estimated at roughly \$500,000. Other revenue sources include the 3.5% of the Waste Tire Fund allocated to the Solid Waste Fee Fund based upon the number of tires sold and the special waste tonnage tipping fee based upon the amount of special waste disposed within the state. While variable, these other revenue sources are critical, representing approximately half of revenues into the Solid Waste Fee Fund. ADEQ continues to operate with total revenues that are insufficient to cover costs. The increases in existing fees and newly established fees in this rulemaking are now projected to contribute and ultimately result in approximately \$2.1 million in additional fee revenue for the Solid Waste Fee Fund.

Regulatory Objective: The Waste Program Division within ADEQ preserves and protects public health and the environment by reducing the risk associated with waste management, contaminated sites, and regulated substances. To fulfill this objective, ADEQ carries out a number of Agency functions corresponding to regulatory and oversight activities for the approximately 2,000 different facilities and entities that fall under Solid Waste Program (SWP) regulation, including: administrative operations; inspections, including pre- and post-inspection activity encompassing historic data and permit review, case closure, and necessary filing; permitting and licensing; public records management; complaint response; and compliance assistance. It is critical that ADEQ has the ability to fully perform all necessary Agency functions to continue to carry out its mission to ensure the continued health of our solid waste ecosystem to preserve and promote public health and the environment.

Least Burden and Cost: A.R.S. § 41-1052(D)(3) requires ADEQ to demonstrate it has selected the alternative with the least burden and cost necessary to achieve the underlying regulatory objective. Similarly, pursuant to A.R.S. § 49-104(B)(17), ADEQ is charged with ensuring all fees "be fairly assessed and impose the least burden and cost to the parties subject to the fees" based upon an evaluation of "the direct and indirect costs of the department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses." This statutory mandate is reinforced by HB2367, which states in Section 17, Legislative Intent, that fees established pursuant to the bill be based upon "direct and indirect costs associated with the type of activity or facility that is assessed a fee."

In the context of this solid waste fees rule, ADEQ has interpreted this requirement to mean collecting fee amounts necessary to ensure a self-funded and sustainable SWP to satisfy ADEQ's detailed requirements to protect and enhance public health and the environment as specified in A.R.S. Title 49, Chapter 4, Solid Waste Management.

Based on ADEQ's interpretation of the statutory mandate that the rule impose the least burden and cost, ADEQ evaluated costs for regulating each type of facility and entity and set fees accordingly. ADEQ continued throughout the rulemaking process to adjust

the fee proposal to impose the least burden and cost while still ensuring overall fee levels necessary to ensure a self-funded and sustainable SWP. Examples include:

- Establishing separate registration fee amounts in R18-13-1103 for septage haulers based on whether ADEQ is tasked with conducting annual inspections or such inspections are handled by counties to be reflective of actual costs to ADEQ.
- Setting an annual registration fee in R18-13-1410 specifically for biohazardous medical waste transfer facilities to ensure fees are commensurate with ADEQ's related regulatory costs and corresponds to other transfer facility fees.
- Leaving initial fees for solid waste plan review at their current levels in R18-13-702 to improve clarity and ease of initial application for facilities subject to plan review while still ensuring necessary cash flow to ADEQ to facilitate commencing facility plan reviews.
- Adjusting the annual registration fee for the largest class of landfills, those that annually receive 225,000 or more tons of waste, by the regional CPI instead of the initial, higher annual registration fee proposed in the NPRM.
- Changing the first annual registration fee of increased fees so that payment of the fee will occur over two invoices as well as delaying payment of new annual registration fees and first quarter landfill disposal and special waste tonnage until July 2025 to correspond with the fiscal year. Following any initial invoicing or other change for the first year of implementation, billing for facilities and entities will return to a single invoice for all new and adjusted annual registration fees for the calendar year billing cycle in January 2026.
- Setting back the annual CPI adjustment to July instead of January, coinciding with the fiscal year. This affords stakeholders more time in preparing budgets aligned with the fiscal year.
- Setting an annual cap of 4% on the CPI adjustment of the fee amount of the preceding year. This CPI cap will promote stability and predictability year-on-year for stakeholders during budgeting and cost forecasting.

Fairly Assessed: To ensure the fees adjusted and established under this rulemaking be fairly assessed against each member of the regulated community subject to them, ADEQ conducted extensive stakeholder engagement, including three rounds of stakeholder meetings to present all proposed fee levels, explain the basis for the fees, provide detail on the need for and methodology of the annual CPI adjustments, and present rule language. ADEQ was able to solicit productive feedback from the regulated community. This feedback guided ADEQ in assessing and adjusting proposed fee levels and implementation to impose the least burden on members of the regulated community to the fullest extent possible.

In addition to engagement with and feedback from the regulated community, ADEQ reviewed costs associated with Agency functions in carrying out regulated activities, with costs identified and distinguished by facility type. Based upon these costs, ADEQ employed the fee methodology discussed in Part 7 of the Preamble, "Explanation of Fee Methodology", that set fees for each class of facility or entity.

Implementation Schedule: In furtherance of ADEQ's goal to ensure the proposed fees impose the least burden and cost, ADEQ evaluated the feasibility of an implementation schedule that balances the fiscal health of SWP and the budget constraints of the regulated community subject to the fees. Currently, ADEQ sends out invoices for registration fees to correspond with the calendar year. However, a recurring point of discussion throughout the rulemaking process was the concern of implementing a new fee or fee increase in the middle of the fiscal year for many counties, municipalities, and other political subdivisions. As such, while the rule and fees would become effective as of January 2025, fees will be implemented pursuant to a schedule for CY2025 to accommodate the fiscal needs of counties, municipalities, and other political sub-divisions.

This implementation schedule is discussed in greater detail and presented in a series of tables in Part 7 of the Preamble, "Implementation Schedule".

Identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking: Stakeholders directly affected by this rulemaking include all 15 counties within the state, local municipalities, and the approximately 2,000 solid waste facilities and entities with different media types subject to ADEQ regulatory compliance and oversight under Solid Waste Management, as well as the general public. These facilities may be categorized as government and privately owned. Approximately 13% of all solid waste facilities and entities are owned by a political subdivision of the state, with the remaining being privately owned and operated, ranging from individual licensees to large, multistate businesses. These facilities and entities include solid waste transfer facilities of varying size and sophistication, from rural drop-site locations to city facilities, septage hauler licensees, waste tire sites, off-site facilities registered for the treatment, storage, or disposal of auto-shredder residue, special waste transporters and generators, biohazardous medical waste transport companies, used oil handlers and collectors, facilities accepting lead acid batteries for collection or recycling, and both public and privately-owned landfills.

These facilities and entities are discussed in greater detail in the "Cost/Benefit Analysis" to follow.

Cost/Benefit Analysis: The estimated total impact for this rule is \$12 million, which is the approximate total amount of increased fees across all programs. This estimated impact is subject to annual adjustment pursuant to the regional CPI adjustment. Approximately \$1.8 million in increased fees will be collected pursuant to the proposed new and adjusted fees, including the special waste tonnage tipping fee, for regulated facilities and entities to be deposited into the Solid Waste Fee Fund. \$6.7 million of increased fees will be collected through the fee on the sale of new tires as incorporated, with this cost borne by sellers and purchasers of new tires throughout the state. Of this \$6.7 million, 3.5% or approximately \$237,000 will be deposited to the Solid Waste Fee Fund pursuant to A.R.S. § 44-1305(B)(1), resulting in the total increased revenues to the Solid Waste Fee Fund of approximately \$2.1 million. The remaining revenues from the fee on the sale of new tires are apportioned to the counties as provided in law. Finally, approximately \$3.5 million in increased fees will be collected pursuant to the landfill disposal fee as incorporated to be deposited into the Recycling Fund pursuant to A.R.S. § 49-836.

ADEQ finds that the benefits associated with this rule change outweigh any foreseen or anticipated costs, as discussed in further

detail below.

Probable benefits include:

- Allow the Recycling Fund to be more fully utilized for its intended purpose. Since the loss of General Fund revenues and the establishment of the fee-based program model in 2012, it has been necessary to expend from the Recycling Fund to cover management of solid waste regulatory programs. By ensuring full cost-recovery and program funding through this proposed rulemaking, expenditures from the Recycling Fund to cover solid waste management may be addressed, allowing appropriations under the Recycling Fund to be used for the stated purpose of that fund. ADEQ is committed to expenditures from the Recycling Fund being used for the stated purpose of grants and contracts for “research, demonstration projects, new technologies, market development and source reduction studies and implementation of the recommendations or reports prepared.” See A.R.S. § 49-837(B)(1).
- Minimize public health risks from solid waste activities. Fee levels ensuring full cost-recovery to ADEQ for regulatory activities and program stability are critical to allow ADEQ to adequately perform all its duties relating to its mission to enhance public health and the environment, including inspections, monitoring, public education, compliance, and permitting.
- Ability to address the obligations cited in the 2021 Auditor General’s Report. The Auditor General’s September 2021 Performance Audit and Sunset Review Report noted ADEQ has not yet adopted all statutorily required rules. Specifically, the Report notes A.R.S. § 49-761 requires the Department to adopt various rules for solid waste facilities, such as requirements for storing, processing, treating, and disposing of solid waste; best management practices for these facilities; and financial assurance requirements for facility closure. The Report ultimately recommends such rules should be adopted as required by statute. By ensuring appropriate funding levels and future programs security, ADEQ will be better positioned to undertake further rulemakings to address this recommendation of the Auditor General.
- Ability to address regulatory vacuum to protect public health and the environment as well as promote business development. With adequate and sustainable funding, SWP may increase inspection and enforcement activities to address and mitigate any regulatory vacuum within the solid waste universe. A greater ability to engage in regulatory activities provides a stronger deterrence to behavior that is harmful to the environment and public health, mitigates any unlevel playing field between competing facilities, and provides certainty for current and prospective businesses in estimating and planning for standards and operation requirements that must be adhered to.
- Ensure fee revenues continue to match increasing costs to ADEQ through annual regional CPI adjustments. The annual adjustments in the proposed rule will allow SWP to maintain fee levels commensurate with rising costs due to inflation to facilitate cost-recovery year over year and continued program stability.

This cost/benefit analysis includes an analysis of the following elements pursuant to A.R.S. § 41-1055(B)(3):

- Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking: probable benefits to ADEQ by the implementation of this rule include ensuring that SWP becomes sustainable, secure, and self-sufficient as a fully fee-based program. Additionally, benefits include allowing the Recycling Fund to be more fully utilized for its intended purpose, minimizing public health risks from solid waste activities, allowing ADEQ to address obligations cited in the 2021 Auditor General’s Report, and to maintain fee levels commensurate with rising costs due to inflation to facilitate cost-recovery year on year and continued program stability. Probable benefits to ADEQ are discussed in greater detail in Part 7 of the Preamble. A probable cost to ADEQ in the implementation of this rulemaking is the administrative costs associated with administering these fees, including in accordance with the proposed implementation schedule and updating the fees annually pursuant to the regional CPI adjustment. No new full-time employees are necessary to implement or enforce this rule.

The Arizona Department of Revenue is charged with the collection of the new tire sales fee, 2% of the sale price of a new tire capped at \$2.00, pursuant to A.R.S. § 44-1302. This rulemaking incorporates this existing fee into rule at R18-13-2202, with an adjustment to the fee cap based upon CPI as well as a continuing annual regional CPI adjustment to the cap. As such, it will be necessary for the Department of Revenue to update each year the quarterly Motor Vehicle Waste Tire Fee return form to reflect the new fee cap. This will present a new administrative cost to the Department of Revenue in the timely updating and dissemination of the return form.

- Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking: probable benefits to political subdivisions by the implementation of this rule include the increased fee revenues of approximately \$6.5 million apportioned to the counties based on registered motor vehicles for the administration of each county’s waste tire program pursuant to the incorporation and adjustment of the new tire sales fee. ADEQ has heard that costs for running these waste tire programs have increased, creating additional strains on counties attempting to fully administer their respective programs as required by A.R.S. § 44-1305. Increased fee revenues to be apportioned to the county waste tire programs will provide more money for each county to administer its required waste tire program. Additionally, increased fee revenues ensuring overall program health and self-sufficiency for SWP will strengthen the capacity for ADEQ to partner with counties and other political subdivisions to address key waste issues, such as wildcat, or illegal, dumping of waste, including increased enforcement activity and clean-up efforts.

Probable costs to political subdivisions from the implementation of this rule are the increased and new fees each political subdivision will be subject to for their county and municipal solid waste facilities and entities, as well as the increased land-fill tonnage fees. Of the total approximately 2,000 solid waste facilities and entities regulated by ADEQ, the Agency estimates 13% are owned and operated by political subdivisions. This total includes approximately 26 active municipal landfills as well as 19 landfills currently in post-closure care.

Other facilities owned and operated by political subdivisions include:

- Used and waste tire sites. These include sites storing 100 or more used tires outdoors, as well as waste tire sites subject to self-certification and best management practices. Used and waste tire sites are often operated by and for counties under county waste tire collection programs. There are approximately 30 publicly operated used and waste tire sites.
- Transfer facilities subject to both self-certification and best management practices. To note, exempted from the definition of transfer facilities for purposes of registration fees are material recovery facilities where the incoming materials are primarily source separated recyclables and community or neighborhood recycling bins including drop boxes, roll off containers, plastic containers used to collect residential, business, or governmental recyclable solid waste. There are approximately 80 publicly operated transfer facilities maintained by counties and municipalities throughout the state.
- Septage haulers. While the majority of licensed septage hauler vehicles are privately owned and operated, some political subdivisions maintain licensed septage vehicles for purposes of sanitation and public departments. There are approximately 40 septage hauler licensed vehicles maintained by political subdivisions.
- Collection or recycling facility that accepts lead-acid batteries. Counties and municipalities often maintain registered household hazardous waste sites that accept lead-acid batteries. There are approximately 30 such registered facilities throughout the state.
- Probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rulemaking: With fees resulting in a fully-funded SWP, ADEQ may engage in greater compliance assistance for regulated facilities and entities. Further, ADEQ will have more resources to facilitate more expeditious permit review, both for new permits and renewals. This will allow permit applicants to begin facility operations sooner, mitigating administrative burdens associated with permit review time and allowing for faster business development, while still maintaining high regulatory standards for facilities and solid waste operations to ensure the protection of human health and the environment.

Further, a fully-funded SWP will provide ADEQ with the resources needed to engage in greater oversight and compliance, ensuring a more level playing field between regulated businesses and entities. With greater enforcement and oversight, ADEQ may better identify and address pollution, spills, and failures to meet regulatory requirements. This further promotes adherence to regulation amongst all facilities, mitigating the harm to those facilities and entities that must compete with and operate in the same regulatory space as those facilities and entities that may fail to adhere to minimum standards. Additionally, SWP may engage in more robust partnership with the regulated community through activities and programs designed to promote compliance and assistance. Increased program funding and stability can result in greater collaboration with the regulated community, including greater engagement by SWP sections in outreach that help facilities understand and comply with applicable regulations.

Probable costs to businesses directly affected by the rulemaking include the new or increased fees privately-owned solid waste facilities and entities will be subject to, as well as increased landfill tonnage and special waste tonnage fees.

There are approximately 27 active landfills and 7 landfills in post-closure care that are privately owned and operated subject to regulation by ADEQ.

Privately-owned regulated facilities and entities also include those described below:

- Transfer facilities subject to self-certification or best management practices. These facilities are located throughout the state and range in size and sophistication. Self-certification transfer facilities are those that handle a daily throughput of more than 180 cubic yards of solid waste, while transfer facilities subject to best management practices are those that handle a daily throughput of 180 cubic yards or less of solid waste. To note, mirroring public transfer facilities, exempted from the definition of transfer facilities for purposes of registration fees are material recovery facilities where the incoming materials are primarily source separated recyclables and community or neighborhood recycling bins including drop boxes, roll off containers, plastic containers used to collect residential, business, or governmental recyclable solid waste. There are approximately 80 privately-owned transfer facilities throughout the state.
- Used oil handlers. Used oil handlers are defined as used oil processors, burners, transporters, and marketers required to obtain an EPA identification number pursuant to 40 CFR 279. The majority of the used oil handlers are transporters and marketers, representing 85% of registered used oil handlers. Used oil transporters are anyone that collects or accepts used oil from regulated handlers and transports that used oil to another facility while used oil marketers are anyone who markets used oil or first claims that used oil meets the used oil fuel specifications. There are approximately 230 used oil handlers throughout the state.
- Biohazardous medical waste (BMW) facilities and entities. BMW facilities and entities include BMW transporters, BMW treatment facilities, and BMW storage facilities. There are approximately 50 BMW transporters engaged in moving biohazardous medical waste, as defined in R18-13-1401(4), to an approved disposal facility. There are approximately 20 BMW treatment and storage facilities accepting biohazardous medical waste for proper treatment, storage, and disposal pursuant to regulation.
- Septage haulers. There are over 500 registered privately owned and operated septage hauler licenses throughout the state engaged in the transportation of sewage or human waste that is removed from septic tanks or other onsite wastewater treatment facilities.
- Special waste facilities. Special waste facilities include generators, transporters, and receiving facilities of special waste, defined as solid waste other than hazardous waste requiring special handling and management. Currently petroleum contaminated soils and auto-shredder fluff from shredding motor vehicles are designated special wastes in Arizona. There are

approximately 80 special waste transporters, 70 special waste generators, and 16 special waste receiving facilities throughout the state engaged in the transportation, treatment, storage and disposal of special waste.

- Collection or recycling facility that accepts lead-acid batteries. There are approximately 200 registered facilities with ADEQ authorized for the collection and recycling of lead-acid batteries throughout the state.

For the reasons discussed above, ADEQ finds that the benefits associated with this rule change outweigh any foreseen or anticipated costs.

General description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the proposed rulemaking: ADEQ estimates this rulemaking will not have an impact on public or private employment.

Probable impact of the proposed rulemaking on small businesses: Arizona law defines “small business” for the purpose of this analysis as a “concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year.” See A.R.S. § 41-1001(23). The probable impact on small businesses includes an analysis of the following elements pursuant to A.R.S. § 41-1055(B)(5):

Identification of the small businesses subject to the rulemaking: ADEQ has reviewed its records of solid waste facilities subject to new or adjusted fees affected by this rule to determine which ones are small businesses. An important criterion is that the business must be independently owned and operated. Based on this review and applicable definition, it appears likely that many septage haulers are independently owned and operated and not likely to exceed the revenue and employee limits in the statutory definition of small business. Additionally, it appears likely that a number of used outdoor tire sites storing more than 100 used tires, biohazardous medical waste transporters, certain transfer facilities subject to best management practices, as well as certain used oil handlers would qualify as small businesses for purposes of this rulemaking and collection and recycling facilities accepting lead acid batteries.

Administrative and other costs required for compliance with the proposed rulemaking: ADEQ does not anticipate appreciable administrative or other costs associated with compliance with the rulemaking. While this rule imposes a financial obligation corresponding with registration of certain facility types, compliance with the requirements of registration has long been a component of SWP. Registration under this rulemaking is administrative, with no additional substantive licensing or approval procedures or requirements compared to those that may already exist for regulated facilities.

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 any of the following methods are legal and feasible in meeting the statutory objectives which are the basis of the rule making:

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards for small businesses to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

The listed methods are not generally relevant to a rule establishing fees. See A.R.S. § 49-104(B)(17). However, in developing fee amounts for different categories of facilities and entities, ADEQ was guided by its statutory mandate that all fees be fairly assessed and impose the least burden and cost to the parties subject to the fees. Further, the implementation schedule discussed in greater detail in Part 7 of the Preamble was designed to impose the least burden possible on all facilities and entities subject to fees under this rule, including small businesses.

Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking: Adequate and sustainable funding for SWP further enables ADEQ to more fully perform its duties relating to its mission to enhance public health and the environment. Benefits to private persons and consumers includes greater enforcement and compliance activities that can be carried out by ADEQ. With adequate funding levels, SWP may conduct more regular inspections of regulated facilities and entities, leading to greater oversight, identification of violations, and corrective actions, resulting in greater minimization of public health risks from solid waste activities. Additionally, adequate funding for SWP will result in sustained and improved Agency response to citizen complaints. Robust engagement with the public is a critical component of ADEQ's mission. SWP receives approximately 80 solid waste complaints from the public annually. The ability to ensure that each complaint is efficiently and effectively fielded, managed, and resolved will be strengthened through adequate funding for SWP.

Further benefits include greater public outreach and education efforts. For example, the Recycling Program educates and encourages Arizonans to reduce, reuse, recycle, and buy recycled products as an alternative to solid waste disposal in landfills. The program assists communities and organizations in developing recycling programs, accessing markets for recycled materials, and educating people about the benefits of recycling. Providing information to the public regarding proper residential and commercial disposal of solid waste is another important component of ADEQ's mission.

Probable costs to private persons and consumers include the increase in the fee cap on the sale of new tires. This rulemaking incorporates into rule the statutory new tire sale fee under A.R.S. § 44-1302 of 2% on the purchase price of each tire sold and raises the per tire cap from \$2.00 to \$4.66. This is anticipated to result in increased revenues of \$6.7 million. This fee is to be collected by the seller of tires and vehicles and often operates as a passthrough fee to be borne by the consumer. The maximum increased cost an individual consumer may be subject to is \$10.64 per vehicle purchase or \$2.66 per tire replacement, assuming the purchase is of a four-wheel vehicle.

An additional probable cost to private persons and consumers is the potential for increased solid waste disposal costs due to the

increase to the landfill disposal fee. The landfill disposal tonnage fee is often a passthrough to residential customers. With the landfill disposal fee being increased based on a CPI adjustment, landfills, both public and privately-owned, may elect to raise rates for residents and customers to offset this increase.

Probable effect on state revenues: ADEQ estimates that fees from this rulemaking will directly affect state revenues by increasing overall annual fee revenue generated across programs and funds by approximately \$12 million.

Description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking: This rulemaking is the least intrusive and costly means possible to achieve the same objectives. ADEQ engaged with stakeholders to explore methods to reduce the impact of new or increased fees, including among other outreach efforts three stakeholder meetings, and established an implementation schedule for the first calendar year of the fees to impose the least burden and cost, as discussed in detail in Part 7 of the Preamble.

Description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data: Any data or reasoning which this rulemaking is based on is identified in the “Rule Scope and Explanation” portion of the Notice of Final Rulemaking located in Part 7. Generally, no new data was introduced or reviewed to make these rule changes.

Based on the foregoing, ADEQ finds that the benefits associated with this rule change outweigh any foreseen or anticipated costs.

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

Changes were made to the rule to reduce the regulatory burden and impact to stakeholders. These changes include:

1. Place a cap of 4% on the annual CPI adjustment for all fees. This involves inserting language stating “except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year” at: R18-13-402(E), R18-13-501(F), R18-13-702(G), R18-13-801(A), R18-13-1103(E), R18-13-1211(C), R18-13-1212(D), R18-13-1212.01(C), R18-13-1306(E), R18-13-1307(H), R18-13-1409(J), R18-13-1410(G), R18-13-1606(F), R18-13-1901(C), R18-13-2002(D), R18-13-2102(D), R18-13-2103(C), and R18-13-2202(D).
2. Set back the time of implementation of the adjustment from January to July of each year. This involves striking the word “January” and replacing with “July” at: R18-13-402(E), R18-13-501(F), R18-13-702(G), R18-13-801(A), R18-13-1103(E), R18-13-1211(C), R18-13-1212(D), R18-13-1212.01(C), R18-13-1306(E), R18-13-1307(H), R18-13-1409(J), R18-13-1410(G), R18-13-1606(F), R18-13-1901(C), R18-13-2002(D), R18-13-2102(D), R18-13-2103(C), and R18-13-2202(D).
3. Remove the annual CPI adjustment for the solid waste landfill disposal fee. This involves removing in whole subsection (H) of R18-13-2104.
4. Set back the implementation of the new tire sales fee until April 1, 2025. This involves inserting the language “Beginning April 1, 2025” at the beginning of R18-13-2202(A).

Additional non-substantive changes were made to improve clarity of the rule and better conform with official style and form guidance. These changes include:

5. R18-13-501(C). Reformat the numerical list to conform with current rule language.
6. R18-13-1103(C)(3). Replace the semicolon at the end of a list with a comma.
7. R18-13-1201. Reorder the new definition of “waste tire collection site” to now be in alphabetical order.
8. R18-13-1307(F). Reformat the subsection to conform with official Arizona rulemaking publishing style and form. This includes re-lettering current subsection (G) to subsection (F) and establishing subsection (F)(2) as new subsection (H).
9. R18-13-1409(I)(4). Correct the subsection reference from subsection (K) to subsection (I).
10. R18-13-1606(E). Correct the subsection reference from subsection (B) to subsection (C).
11. R18-13-2002(D). Correct the subsection references from subsection (B) and (C) to subsections (A) and (B).
12. R18-13-2104(C). Clarify the maximum fee amount is an annual maximum.
13. R18-13-2104(F). Delete redundant reference to “other information deemed necessary by the Department.”
14. R18-13-2202(C). Add the word “Arizona” before “Department of Revenue” to improve clarity and consistency.
15. R18-13-2201(B). Insert the words “to a” before “political subdivision” to improve clarity.
16. R18-13-2202(A). Strike the words “sales tax” and replace with “transaction privilege tax” to more accurately use the applicable Arizona state tax terminology. Insert the word “tire” before the word “seller” to improve consistency.
17. R18-13-2202(D)(2). Add language stating ADEQ shall both notify the Arizona Department of Revenue of the annual CPI adjustment to the new tire sale fee and post such amount on its website as soon as practicable.

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

ADEQ received 15 comment letters throughout the formal comment period that ran from August 16, 2024 to September 20, 2024. Nine of these comment letters came from cities and towns, including the cities of Glendale, Goodyear, Mesa, Phoenix, Tempe, Tucson, Casa Grande, Scottsdale, and the Town of Gilbert, with the remaining comment letters coming from the League of Arizona Cities and Towns, Graham County, Gila County, the National Waste & Recycling Association’s (NWRA-AZ) Arizona Chapter, the County Supervisors Association, and a member of the business community. ADEQ also received several formal oral comments during a public hearing held on September 19, 2024.

Throughout the comment letters and formal comments during the public hearing certain comments were consistently raised. Each of these comments is addressed and responded to below:

Impact of substantial fee increases. Comment letters state proposed fee increases are substantial. Commenters including the City of Phoenix and Graham County notes several fees are increased by 100% or more, with three fees increased more than 1,000% compared to current levels. This impact will not only be felt by solid waste facilities such as landfills and transfer facility operators but also residents and local businesses that will experience direct and pass-through costs. The City of Phoenix notes this can present a challenge for cities and towns as service fee increases are politically sensitive, requiring advanced notification to residents and City Council approval.

Agency Response: ADEQ responds that SWP has been mandated to operating under a fee-based model since 2012. ADEQ recognizes that some fee increases are significant; however, for the last 12 years SWP has performed unfunded regulatory mandates for approximately half of its solid waste universe. Further, fees established in 2012 were established at levels far below actual cost to the Agency. Accordingly, this rulemaking establishes fees more universally throughout the solid waste universe with each fee established at a level reflective of actual costs to the Agency in carrying out relevant regulatory activities.

Fee implementation timing. Several comment letters note budget constraints faced by political subdivisions and the anticipated strain of having fee implementation coincide with the calendar year. Counties and municipalities have expressed that this situation creates challenges in budgeting and forecasting, particularly in preparing their budgets to accommodate fee payments and increases that become effective in January. Commenters request that fee implementation be delayed until July 1, 2025 and that future billing by the agency coincide with the fiscal year, with all future billing coming due pursuant to invoices sent in July.

Agency Response: ADEQ recognizes budget constraints faced by political subdivisions. Accordingly, ADEQ split the implementation of fees for calendar year 2025 between two invoice periods, as described in greater detail in Part 7 of the Preamble, "Implementation Schedule". Following the initial implementation, ADEQ has determined it is necessary for SWP to maintain the calendar year billing cycle to ensure continued program stability.

Continuing CPI Adjustments. Commenters raise concern that CPI adjustments under the rule are perpetual. Commenters note this may result in under or over cost recovery. Commenters request ADEQ make the following changes to the CPI adjustment methodology.

- ADEQ makes the CPI adjustments sunset after a period of five years.
- Each annual CPI adjustment is capped, such as at a maximum of a 5% increase per year.
- CPI adjustments should be implemented in July based on the CPI as published in January of each year.

Agency Response: ADEQ appreciates concerns raised by stakeholders concerning implementation of the CPI adjustment methodology, including the request for a sunset, cap to annual maximum adjustment, and aligning the adjustment with the fiscal year. ADEQ believes CPI is a reasonable tool to approximate year-to-year increased costs to the Agency. The annual CPI adjustment is representative of the cost of living for ADEQ employees, which ADEQ must hire and retain. CPI is a proven method for budgeting stability both in the public and private sectors. Within ADEQ, CPI has been utilized within the Air Quality Division for over a decade, and has been implemented in recent rulemakings for hazardous waste and water quality fees. Placing a cap on the maximum annual adjustment could result in a misalignment between program revenues and true costs to the program. ADEQ established fees at levels to cover program costs while imposing the least cost and burden to those subject to the fees. As CPI adjustments are based on costs to the Agency, to cap these adjustments below changes to Agency costs would result in under-recovery by ADEQ.

ADEQ is committed to continued oversight and accountability for its programs. Program leadership analyzes the effectiveness of programs annually and reports to the Director on all aspects of the programs, including costs and revenues. Through this, ADEQ programs are regularly reviewed to ensure the Agency is able to meet its statutory mandates, including that all fees be fairly assessed and impose the least burden and cost. *See* A.R.S. § 49-104(B)(17). Accordingly, future adjustments to programs are considered to ensure continued alignment with those statutory mandates. As such, ADEQ does not believe a sunset on annual CPI adjustments is necessary.

However, while ADEQ determined that it is necessary for SWP to maintain the calendar year billing cycle to ensure continued program stability, to allow for adequate time to budget for annual adjustments based upon CPI, the rules have been changed so that adjustments will now align with the fiscal year. Further, to promote stability and predictability year-on-year, adjustments are capped at 4% of the fee amount of the preceding year.

Financial strain on political subdivisions due to legislative reduction of the flat tax and repeal of the rental tax. In comment letters political subdivisions consistently state the strain towns and cities are currently facing due to the recent implementation of the state reduced flat tax as well as the elimination of the rental tax. Towns and cities are concerned with the additional impact posed by fees under this rulemaking.

Agency Response: ADEQ recognizes that political subdivisions including cities and towns face certain economic constraints from recent legislative changes. In accordance with ADEQ's mandate for a fee-based program and pursuant to A.R.S. § 49-104(B)(17), ADEQ established fees to be "fairly assessed and impose the least burden and cost to the parties subject to the fees" based upon an evaluation of "the direct and indirect costs of the department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses."

In response to current and projected economic constraints felt by cities and towns and the residents who ultimately pay for solid waste services, these rules have been changed to eliminate the annual CPI adjustment for the solid waste landfill disposal fee. This will allow for political subdivisions that operate landfills to better project anticipated costs.

Assurance that the fees will support the solid waste fund and recycling grants and not be swept to cover other state budget shortfalls. Commenters raise concern that revenues to the Recycling Fund from landfill disposal fees will be used to support other state budget needs.

Agency Response: ADEQ appreciates these concerns. ADEQ is committed to using the greatest portion feasible of the Recycling Fund towards grants and contracts and other stated uses under A.R.S. § 49-837 to further the mission of the Arizona Recycling Program. Appropriation authority rests solely with the state legislature.

Additional comments specific to each commenter are addressed below:

City of Glendale. The City of Glendale states the City has Intergovernmental Agreements (IGAs) with the cities of Peoria, Good-year, and Avondale for use of its landfill. These IGAs do not reflect the increase in fees and this cost will be absorbed by the City of Glendale. The City of Glendale requests the rulemaking be paused and ADEQ adjust its approach to reduce the impact on cities.

Agency Response: ADEQ responds that, as demonstrated through a series of stakeholder meetings and presented materials, to carry out the Agency's legislative mandates, the Agency has borne costs far exceeding revenues due to inflation and from insufficient fees under a fee-for-service program since 2012. These fee increases are necessary to ensure program stability for the Agency to fulfill its statutory mandates to protect human health and the environment.

The Legislature passed HB2367 pursuant to an emergency clause for immediate enactment. Delaying the rulemaking and final implementation of the fees would jeopardize the financial stability of SWP.

National Waste & Recycling Association's – Arizona Chapter. The NWRA-AZ comment letter includes the following: (1) requests ADEQ update an Agency calendar reflecting the adoption of the new rule, (2) formalize rules for the Recycling Grant Program, (3) asks if there exists a proforma report projecting total revenues in this program and as a result of these increases and how they relate to program costs ensuring that the program is not over funded, (4) questions the application of fees, if any, to closed landfills to ensure that post-closure plans are accurate and if none are applied, written statement in the Rules regarding absence of fee assessment to closed landfills and (5) NWRA-AZ requests feedback on if submitted comments are available for review and if they will be available through the ADEQ website.

Agency Response: ADEQ responds to the request for an Agency calendar by stating ADEQ intends to update the regulated community annually following implementation of the fees and for subsequent CPI adjustments. In the third stakeholder meeting held July 18, 2024, ADEQ explained how the Agency plans to publish on the ADEQ website the fee table and fee updates for all fees affected by the rulemaking. Further, ADEQ intends to send out notice to regulated facilities subject to the fees announcing fee adjustment and updates. This is based upon current practice for hazardous waste fees that are similarly subject to annual CPI adjustments.

The Agency recognizes and appreciates the importance of recycling grant funding and the Recycling Grant Program for stakeholders and the public. However, it is outside the authority or mandate of this rulemaking for ADEQ to implement any rules for the Recycling Program.

Post-closure plans are reviewed as part of the approval process. Further, ADEQ has responsibility for regulatory oversight of landfills for the full duration of post-closure care. This oversight includes inspections, data review, and records management. The annual fee for post-closure care will cover costs to the Agency for this regulatory oversight.

Concerning the question if submitted comments are available for review, ADEQ responds that the agency acts in accordance with its statutory mandate to summarize comments and publish responses in this Notice of Final Rulemaking. Public comments are available through the ADEQ Records Management Center via a public records request under A.R.S. §§ 39-101 through 39-161.

City of Phoenix. The City of Phoenix requests additional clarification on proposed fee increases. City of Phoenix notes in the Notice of Proposed Rulemaking (NPRM) that ADEQ states "currently regulatory costs across all solid waste programs for ADEQ are estimated to total \$3.5M per year; however, current fees generated are estimated at roughly \$500,000." The City of Phoenix requests clarity on how much of the current generated fee revenue is in the recycling fund versus the solid waste fund and please provide the estimated revenue by fund with the proposed fee increases and how the total contribution of the fee on the sale of new tires into the solid waste fee fund of \$665,000 was derived. The City of Phoenix also believes that the NPRM statement the post-closure care fee is new is inconsistent with the strike-through language in R18-13-2103 on page 2598 that states the annual landfill registration is \$1,250. The City of Phoenix requests clarity if the closed landfill fees are new or increases on existing fees.

The City of Phoenix recommends ADEQ limit the subsequent CPI increases and provide ongoing and thorough transparency and justification for the fee increases.

Agency Response: ADEQ clarifies that the stated approximately \$500,000 of fee revenue deposited into the Solid Waste Fees Fund comes from annual registration fees for facilities and entities. As noted by the commenter, all revenues generated from the landfill disposal fee are deposited into the Recycling Fund pursuant to A.R.S. 49-836.

Following this rulemaking, revenues to the Solid Waste Fee Fund, which include annual registration fees, special waste tonnage fees, and the 3.5% apportioned from the new tire sale fee, are estimated to be approximately \$3.4 million (an increase of \$2.1 million) depending on total tonnage disposed of, active amount of facility registrations, and the sale amount of new tires; revenues to the Recycling Fund, which include the landfill tonnage disposal fee, are estimated to be approximately \$6.2 million (an increase of \$3.5 million), with future expenditure levels contingent on legislative appropriation; and revenues generated from the new tire sales fee, contingent on the number of tires sold, are estimated to be approximately \$19 million (an increase of \$6.7 million). The determination of total contribution of the new tire sales fee estimated at approximately \$665,000 is based upon 3.5% of the total approximate revenue from the new tire sales fee.

ADEQ clarifies that the current annual registration fee of \$1,250 is only applicable through completion of landfill closure. However, it does not apply to landfills still regulated in post-closure care. This has been the historic application of this fee provision based upon interpretation of prior statutory authority. Subsequent clarity to this statutory authority through amendment to the definition of a "closed solid waste facility" made during the 2024 legislative session pursuant to HB2628 provided the directive for the collection of the fee during the full period of post-closure care as established in the rule. The Amendment to R18-13-2103 estab-

lishes that this fee, increased to \$3,500, is for the full duration of post-closure care, approximately 30 years, for the reasons stated in the Preamble. As this fee will now be applicable for a different duration of time and obligations, ADEQ characterizes this as a new fee.

Concerning City of Phoenix's request to limit the subsequent CPI increases and provide ongoing and thorough transparency and justification for the fee increases, ADEQ believes CPI is a reasonable tool to approximate year-to-year increased costs to the Agency. The annual CPI adjustment is representative of the cost of living for ADEQ employees, which ADEQ must hire and retain. CPI is a proven method for budgeting stability both in the public and private sectors. At ADEQ, CPI has been utilized within the Air Quality Division for over a decade, and has been implemented in recent rulemakings for hazardous waste and water quality fees. Further, ADEQ is committed to continual program oversight and accountability. Program leadership analyzes the effectiveness of programs annually and reports to the Director on program revenues and costs as necessary to meet ADEQ's statutory mandates.

While ADEQ recognizes CPI as a reasonable tool to approximate year-to-year increased costs to the Agency, ADEQ acknowledges concerns raised by the regulated community. As such, to promote stability and predictability year-on-year, the rules have been changed so that all CPI adjustments are capped at 4% of the fee amount of the preceding year.

City of Tucson. The City of Tucson recommends that ADEQ consider the implementation of these proposed fees in phases pursuant to an implementation schedule over a period of three-to-five years.

Agency Response: ADEQ responds that SWP has been experiencing budget shortfalls for years that continues to be compounded by growing costs without corresponding revenue increases. It is due to the urgency with which SWP needs increased fee revenues to ensure proper cost-recovery and a self-funded program that the Legislature passed HB2367 pursuant to an emergency clause for immediate enactment. Delaying implementation of the fees pursuant to a delayed implementation schedule over the course of several years would jeopardize the financial stability of SWP.

County Supervisors Association of Arizona. The County Supervisors Association expresses support received from counties for the adjustment by CPI for the cap on the new tire sales fee from \$2.00 to \$4.66 as proposed in the rule that will further fund county obligations to collect and contract for the disposal of waste tires.

The Association expresses concern increased costs may incentivize illegal dumping. The Association requests that notice of fee increases be sufficient to allow stakeholders to address costs in future budgets, that fee increases align with existing budget timelines, and that proposed fee increases are justified with annual cost estimates by ADEQ.

Agency Response: ADEQ recognizes that illegal dumping is an ongoing challenge throughout the state. However, ADEQ finds that increased fee revenues ensuring overall program health and self-sufficiency for SWP will strengthen the capacity for ADEQ to partner with counties and other political subdivisions to address key waste issues, such as wildcat, or illegal, dumping of waste.

In response to the Association's request that notice of fee increases be sufficient, ADEQ intends to update the regulated community annually following implementation of the fees and for subsequent CPI adjustments. As stated above, the Agency plans to publish on the ADEQ website the fee table and fee updates for all fees affected by the rulemaking. Further, ADEQ intends to send out notice to regulated facilities subject to the fees announcing any fee adjustment and updates. This is based upon current practice for hazardous waste fees that are similarly subject to annual CPI adjustments.

ADEQ selected CPI as the adjustment methodology because ADEQ believes CPI is a reasonable tool to approximate year-to-year increased costs to the Agency. The annual CPI adjustment is representative of the cost of living for ADEQ employees, which ADEQ must hire and retain. CPI is a proven method for budgeting stability both in the public and private sectors. At ADEQ, CPI has been utilized within the Air Quality Division for over a decade, and has been implemented in recent rulemakings for hazardous waste and water quality fees. Program leadership analyzes the effectiveness of programs annually and reports to the Director on program revenues and costs as necessary to meet ADEQ's statutory mandates.

ADEQ recognizes budget constraints faced by stakeholders. Accordingly, ADEQ split the implementation of fees for calendar year 2025 between two invoice periods, as described in greater detail in Part 7 of the Preamble, "Implementation Schedule". After continued review, following the initial implementation, ADEQ determined it is necessary for SWP to maintain the calendar year billing cycle to ensure continued program stability.

However, to ensure adequate time to budget for annual adjustments based upon CPI, these adjustments will now align with the fiscal year. Further, to promote stability and predictability year-on-year, the rules have been changed so that all CPI adjustments are capped at 4% of the fee amount of the preceding year.

Graham County. Graham County characterizes and raises concern with the new and adjusted fees pursuant to this rulemaking as an "across the board" method based not on the cost to ADEQ of each activity but on the need to raise operational revenue. Graham County states that the emergency legislation of HB2367 enacts fees on July 1. The timing imposes fees that Graham County and other government agencies haven't budgeted for.

Graham County states the landfill disposal fee increase is substantial and rural counties will be unable to cope with the increase. Further, the landfill disposal fee and septage hauler annual registration fee increase will be borne by customers, presenting a challenge for rural counties and municipalities struggling with "wildcat dumping" to avoid landfill costs. Graham County requests fees be increased incrementally over a period of years rather than immediately to lessen "sticker shock" felt by permittees and customers.

Agency Response: ADEQ asserts that each fee was established pursuant to the statutory mandate requiring each fee be based upon an evaluation of "the direct and indirect costs of the department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses." See A.R.S. § 49-104(B)(17). Fees were established under this rulemaking to ensure a fully self-funded program. To

ensure ADEQ fulfilled this statutory mandate, the Agency reviewed actual costs in conducting inspections and regulatory oversight for each class of facility and established fee amounts to ensure fees are reflective of those costs relating to the Department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel, and other necessary operational expenses associated with the type of activity or facility that is assessed a fee. ADEQ states, as demonstrated through a series of stakeholder meetings and presented materials, to maintain the Agency's legislative mandates the Agency has borne costs far exceeding revenues due to inflation and from insufficient fees under a fee-for-service program since 2012. These fee increases are necessary to ensure program stability for the Agency to fulfill its statutory mandates to protect human health and the environment.

ADEQ recognizes based on stakeholder feedback that fee increases pose budget difficulties and that certain fees, such as the land-fill disposal fee and septage hauler annual registration fee, are costs that may be passed on to customers. Accordingly, ADEQ split the implementation of fees for calendar year 2025 between two invoice periods, as described in greater detail in Part 7 of the Preamble, "Implementation Schedule".

ADEQ finds that increased fee revenues ensuring overall program health and self-sufficiency for SWP will strengthen the capacity for ADEQ to partner with counties and other political subdivisions to address key waste issues, such as wildcat, or illegal, dumping of waste. ADEQ recognizes the county's concern with "sticker shock" associated with these fee increases. ADEQ responds as stated above to comments from the City of Tucson that SWP has been experiencing budget shortfalls for years that continues to be compounded by growing costs without corresponding revenue increases. It is due to the urgency with which SWP needs increased fee revenues to ensure proper cost-recovery and a self-funded program that the Legislature passed HB2367 pursuant to an emergency clause for immediate enactment. Delaying implementation of the fees pursuant to a delayed implementation schedule over the course of several years would jeopardize the financial stability of SWP.

City of Scottsdale. The City of Scottsdale requests the tonnage disposal fee not be swept to cover other state budget shortfalls. The City of Scottsdale expresses opposition to perpetual CPI adjustments and instead recommends more frequent rulemakings to adjust fees. Additionally, and in the alternative, the City of Scottsdale requests continuing CPI adjustments be made in July instead of January to coincide with the fiscal year. The City of Scottsdale further raises a series of questions:

- Did the Solid Waste Management program FY 24/25 budget include revenue from the January 1 rate increase? And if yes, what is the total amount of forecasted revenue?
- To achieve the goal of a fully self-funded program, why did ADEQ choose the method of annual CPI adjustments to recover costs instead of reviewing previous fiscal year costs then seeking a corresponding rate increase?
- What will happen if costs are either over recovered or under recovered through annual CPI adjustments?

Agency Response: ADEQ responds that while the rule will be effective in January 2025, the increased portions of the fees would not take effect until July 2025 pursuant to the implementation schedule and thus would not affect the FY2025 budget. ADEQ selected CPI as the methodology because CPI is a proven method for budgeting stability both in the public and private sectors. Within ADEQ, CPI has been utilized within the Air Quality Division for over a decade, and has been implemented in recent rulemakings for hazardous waste and water quality fees. ADEQ is committed to continual program oversight and accountability. Program leadership analyzes the effectiveness of programs annually and reports to the Director on program revenues and costs as necessary to meet ADEQ's statutory mandates.

Further, to ensure adequate time to budget for annual adjustments based upon CPI, the rules have been changed so that adjustments will now align with the fiscal year. Additionally, to promote stability and predictability year-on-year, CPI adjustments are capped at 4% of the fee amount of the preceding year.

Agency rulemakings represent a great cost in time and resources to the agency. The cost to ADEQ to undertake annual rulemaking would require the allocation of resources in personnel and time that would hinder the agency's ability to fulfill its mission and statutory mandates.

Town of Gilbert. The Solid Waste Collections Superintendent representing the Town of Gilbert asked during the public hearing if the formal comment period may be extended.

Agency Response: ADEQ is committed to engagement with stakeholder and the public throughout the rulemaking process. However, it is critical that this rule be effective by January 2025 to ensure program stability. The program is currently experiencing budget shortfalls. Any delay to the implementation of fees will further impact the ability for SWP to fulfill its statutory mandates. An extension of the public comment period is not possible as it would result in a delay of submission of the final rule to the Governor's Regulatory Review Council, resulting in an effective date of the rule after January 2025.

Gila County, District 3 Supervisor Woody Cline. Supervisor Cline objects to the proposed fees, stating the fees will place a financial burden on the county's landfills and that financial burden will be passed on to the county's constituents. Supervise Cline states the county has worked diligently to combat blight on public lands and this increase in fees will definitely have a negative effect on the progress made.

Agency Response: ADEQ responds that, as demonstrated through a series of stakeholder meetings and presented materials, to maintain the Agency's legislative mandates the Agency has borne costs far exceeding revenues due to inflation and from insufficient fees under a fee-for-service program since 2012. These fee increases are necessary to ensure program stability for the Agency to fulfill its statutory mandates to protect human health and the environment.

Tank's Green Stuff. The CEO of Tank's Green Stuff protests the increase in fees for composting operations and construction waste landfills citing soaring operating costs, including equipment, labor, energy costs, and breaks in the supply chain. Tank's Green Stuff states fees should instead be reduced to assist businesses in recovering from recent economic hardships.

Agency Response: ADEQ responds that, as demonstrated through a series of stakeholder meetings and presented materials, to

maintain the Agency’s legislative mandates the Agency has borne costs far exceeding revenues due to inflation and from insufficient fees under a fee-for-service program since 2012. These fee increases are necessary to ensure program stability for the Agency to fulfill its statutory mandates to protect human health and the environment. ADEQ further states that registration fees for composting facilities have been removed from the rulemaking following discussion and feedback from stakeholders to ensure composting may be more prudently addressed in a future rulemaking.

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

Not applicable.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:
 Not applicable. These rules establish registration requirements solely for revenue purposes. *See* A.R.S. § 41-1001(13).

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 on the competitiveness of business in this state to the impact on business in other states:
 No such analysis was submitted.

14. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:
 Not applicable.

15. 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.

16. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY
 SOLID WASTE MANAGEMENT**

ARTICLE 4. SOLID WASTE FACILITIES SUBJECT TO BEST MANAGEMENT PRACTICES

Section

R18-13-401. Definitions

R18-13-402. Solid Waste Facilities Subject to Best Management Practices; Fees

ARTICLE 5. REQUIREMENTS FOR SOLID WASTE FACILITIES SUBJECT TO SELF-CERTIFICATION

Section

R18-13-501. Solid Waste Facilities Requiring Self-Certification; Registration Fees

ARTICLE 7. SOLID WASTE FACILITY PLAN REVIEW FEES

Section

R18-13-702. Solid Waste Facility Plan Review Fees

Fee Tables Fees for Plan Review of New Solid Waste Facilities

Fees for Modifications to Solid Waste Facility Plans

Fees for Review of Financial Responsibility Plans for Solid Waste Facilities

ARTICLE 8. GENERAL PERMITS

Section

R18-13-801. General Permit Fees

Table Solid Waste General Permits

ARTICLE 11. COLLECTION, TRANSPORTATION, AND DISPOSAL OF HUMAN EXCRETA

Section

R18-13-1103. General Requirements; License Fees

R18-13-1117. Reinstatement

ARTICLE 12. WASTE TIRES; USED TIRES

Section

R18-13-1201. Definitions

R18-13-1211. Registration of New Waste Tire Collection Sites; Fee

R18-13-1212. Registration of Outdoor Used Tire Sites; Fee

R18-13-1212.01. Waste Tire Collection Site Subject to Plan Approval; Fees

R18-13-1213. Facilities Subject to More Than One Tire Site Registration; Single Fee

ARTICLE 13. SPECIAL WASTE AND BEST MANAGEMENT PRACTICES FOR SHREDDER RESIDUE

Section

R18-13-1306. Reserved FeesR18-13-1307. Best Management Practices for Waste from Shredding Motor Vehicles; Fees**ARTICLE 14. BIOHAZARDOUS MEDICAL WASTE AND DISCARDED DRUGS**

Section

R18-13-1409. Transporter License; Fees; TransportationTable 1 Fee Table – Transporter License Fees; Frequency of Application for Transporter LicenseTable 2 Fee Table – Transporter Annual FeeR18-13-1410. Storage, Transfer, Treatment, and Disposal Facilities; Facility Plan Approval; Fees**ARTICLE 16. BEST MANAGEMENT PRACTICES FOR PETROLEUM CONTAMINATED SOIL**

Section

R18-13-1606. Fees**ARTICLE 19. LEAD ACID BATTERY RECYCLING**

Section

R18-13-1901. Collection or Recycling Facility of Lead Acid Batteries; Registration; Fees**ARTICLE 20. USED OIL**

Section

R18-13-2001. DefinitionsR18-13-2002. Used Oil Handler Registration; FeeR18-13-2003. Used Oil Collection Center Identification Number; Requirements**ARTICLE 21. SOLID WASTE LANDFILL REGISTRATION AND DISPOSAL FEES**

Section

R18-13-2101. DefinitionsR18-13-2102. Registration; Annual Registration Fee for an Existing Solid Waste LandfillR18-13-2103. Annual Landfill Registration; Due Date and Fees; Landfill Closure and Post-Closure Care Obligations; FeesR18-13-2104. Solid Waste Landfill Disposal Fee; Exemptions**ARTICLE 22. NEW TIRE SELLERS**

Section

R18-13-2201. DefinitionsR18-13-2202. New Tire Sellers; Fee**ARTICLE 4. SOLID WASTE FACILITIES SUBJECT TO BEST MANAGEMENT PRACTICES****R18-13-401. Definitions****A.** “Department” means the Arizona Department of Environmental Quality.**B.** “Material recovery facility” means a transfer facility that collects, compacts, repackages, sorts, or processes commingled recyclable solid waste generated offsite for the purpose of recycling and transport, or where source separated recyclable solid waste is processed for sale to various markets, and where the incoming materials are predominantly recyclable solid waste.**C.** “Recyclable solid waste” means a product or material described in subsection (C)(1) or (2), and for which subsection (C)(3) is true:
1. A product with no useful life remaining for the purposes for which it was produced, or if useful life remains, the product will not, due to location, quantity, or owner choice, remain in use or be reused for a purpose for which it was produced.
2. A material that is a result of a process or activity whose purpose was to produce something else.
3. The product or material retains some economic value, with or without further processing, as a raw material or feedstock in some process other than incineration or combustion.**R18-13-402. Solid Waste Facilities Subject to Best Management Practices; Fees****A.** The following solid waste facilities subject to best management practices under A.R.S. § 49-762.02 shall register with the Department and pay registration fees as provided in this Section:1. A transfer facility, as defined in A.R.S. § 49-701, with a daily throughput of 180 cubic yards or less, but not including:a. A material recovery facility where the incoming materials are primarily source separated recyclables; orb. Community or neighborhood recycling bins including drop boxes, roll off containers, and plastic containers used to collect residential, business, or governmental recyclable solid waste.2. A site at which more than 500 and fewer than 5,000 waste tires are stored on any day that is not required to obtain plan approval pursuant to A.R.S. § 49-762.**B.** Initial registration. A new solid waste facility listed in subsection (A) shall not begin operation until the owner or operator registers with the Department on a form approved by the Department. The owner or operator of a new solid waste facility listed in subsection (A) shall submit an initial registration fee of \$1,800 at the time of registration under this subsection.**C.** Annual registration fee. The Department shall bill an annual registration fee of \$1,500 to a registered solid waste facility listed in subsection (A) that has not filed a notice of termination of registration with the Department. The owner or operator of a registered solid waste facility listed in subsection (A) shall pay the annual registration fee within 30 days of invoice receipt.

- D.** Registration as a waste tire collection site under R18-13-1211 shall satisfy registration and fee requirements pursuant to this Section for a site under subsection (A)(2) of this Section.
- E.** Beginning July 1, 2026, the Director shall adjust the fee amounts in subsections (B) and (C) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 2. Round the result from subsection (E)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

ARTICLE 5. REQUIREMENTS FOR SOLID WASTE FACILITIES SUBJECT TO SELF-CERTIFICATION

R18-13-501. Solid Waste Facilities Requiring Self-Certification; Registration Fees

- A.** The following solid waste facilities requiring self-certification under A.R.S. § 49-762.01 shall register with the Department and pay annual registration fees as provided in this Section ~~by September 30, 2012, and annually thereafter by September 30th:~~
1. A transfer facility, as defined in A.R.S. § 49-701, with a daily throughput of more than 180 cubic yards, including a material recovery facility, but not including:
 - a. A material recovery facility where the incoming materials are primarily source separated recyclables; or
 - b. Community or neighborhood recycling bins including drop boxes, roll off containers, and plastic containers used to collect residential, business, ~~and/or~~ governmental recyclable solid waste.
 2. A facility storing 5,000 or more waste tires on any one day and not required to obtain plan approval.
 3. A waste tire shredding and processing facility.
- B.** Initial registration for a new facility. The owner or operator of a planned new facility identified in subsection (A) of this Section shall submit the following information to the Department before beginning construction:
1. The name of the solid waste facility.
 2. The name, mailing address and telephone number of each owner and operator of the solid waste facility.
 3. The physical location of the solid waste facility by physical address, latitude and longitude, or legal description. If none of these are practical, by driving directions from the nearest city or town.
 4. A brief description of operations, including waste management methods, types and volumes of waste handled, waste storage and treatment equipment, and the length of time the waste remains onsite.
 5. A diagram of the property showing its approximate size and the planned location of the solid waste facility or facilities.
 6. Documentation that the facility will comply with local zoning laws or, if the owner is an agency or political subdivision of this state, with A.R.S. § 49-767.
 7. Documentation that the facility has any other environmental permit that is required by statute.
 8. A copy of the public notice in a newspaper of general circulation in the area where the facility will be located stating the intent to construct and operate a new solid waste facility pursuant to A.R.S. § 49-762.05.
- C.** Initial and annual registration for an existing facility. The owner or operator of an existing facility identified in subsection (A) of this Section shall submit the following information to the Department annually on a form approved by the Department and note any changes since the last registration:
1. The name of the solid waste facility.
 2. The name, address and telephone number of each owner and operator of the solid waste facility.
 3. The physical location of the solid waste facility by physical address, latitude and longitude, or legal description. If none of these are practical, by driving directions from the nearest city or town.
 4. A brief description of operations, including waste management methods, types and volumes of waste handled, waste storage and treatment equipment, and the length of time the waste remains onsite.
 5. A diagram of the property showing its approximate size and the location of the solid waste facility or facilities.
 6. Documentation that the facility remains in compliance with the most current local zoning laws or with A.R.S. § 49-767, as applicable.
 7. Documentation that the facility continues to hold any other environmental permit that is required by statute.
- D.** Self-certification. With each registration under subsection (B) or (C) of this Section, the owner or operator shall certify that the information submitted is true, accurate, and complete to the best of the person's knowledge and belief.
- E.** Registration fees. The owner or operator of a ~~transfer solid waste facility~~ under subsection (A)(1) shall pay the Department \$1,000 ~~\$3,600~~ for the initial registration of a new ~~or existing~~ facility, and ~~\$500~~ \$3,000 for each annual registration thereafter. The Department shall bill the annual registration fee to a solid waste facility under subsection (A) that has not filed a notice of termination of registration with the Department and the solid waste facility shall pay within 30 days of invoice receipt. The owner or operator of a tire facility under subsection (A)(2) or (3) shall pay the Department \$1,000 for the initial registration of a new or existing facility, and \$250 for each annual registration thereafter.
- F.** Beginning July 1, 2026, the Director shall adjust the fee amounts in subsection (E) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 2. Round the result from subsection (F)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.
- F.G.** As used in this Section:
1. "Department" means the Arizona Department of Environmental Quality.

2. “Material recovery facility” means a transfer facility that collects, compacts, repackages, sorts, or processes commingled recyclable solid waste generated offsite for the purpose of recycling and transport, or where source separated recyclable solid waste is processed for sale to various markets, and where the incoming materials are predominantly recyclable solid waste.
3. “Recyclable solid waste” means a product or material described in subsection ~~(F)~~(G)(3)(a) or (b), and for which subsection ~~(F)~~(G)(3)(c) is true:
 - a. A product with no useful life remaining for the purposes for which it was produced, or if useful life remains, the product will not, due to location, quantity, or owner choice, remain in use or be reused for a purpose for which it was produced.
 - b. A material that is a result of a process or activity whose purpose was to produce something else.
 - c. The product or material retains some economic value, with or without further processing, as a raw material or feedstock in some process other than incineration or combustion.

ARTICLE 7. SOLID WASTE FACILITY PLAN REVIEW FEES

R18-13-702. Solid Waste Facility Plan Review Fees

A. With each application submitted for approval pursuant to A.R.S. § 49-762.03, the applicant shall remit an initial fee in accordance with one of the fee tables in this subsection, unless otherwise provided in subsection (B) of this Section. This subsection also lists the maximum fees that the Department will bill the applicant. All fees paid shall be payable to the state of Arizona. The Department shall deposit the fees paid into the Solid Waste Fee Fund established pursuant to A.R.S. § 49-881, unless otherwise authorized or required by law.

Fee Tables

Fees for Plan Review of New Solid Waste Facilities		
	Initial	Maximum
Solid Waste Landfills	\$20,000	\$200,000 <u>\$297,047</u>
Non-APP requirements for Non-MSWLFs operating under an APP	\$2,000	\$50,000 <u>\$74,262</u>
Other Solid Waste Facilities Subject to Plan Approval	\$10,000	\$100,000 <u>\$148,524</u>

Fees for Modifications to Solid Waste Facility Plans		
	Initial	Maximum
Solid Waste Landfills – Type IV	\$1,500	\$150,000 <u>\$222,786</u>
Solid Waste Landfills – Type IV – RD&D	\$15,000	\$150,000
Solid Waste Landfills – Type III	\$750	\$75,000 <u>\$111,393</u>
Other Solid Waste Facilities Subject to Plan Approval - Type IV	\$750	\$75,000 <u>\$111,393</u>
Other Solid Waste Facilities Subject to Plan Approval - Type III	\$500	\$50,000 <u>\$74,262</u>

Fees for Review of Financial Responsibility Plans for Solid Waste Facilities		
	Initial	Maximum
Annual Review for Solid Waste Landfills	\$600 <u>\$891</u> Flat Fee	N/A

Other Solid Waste Facilities	\$200	\$5,000 \$7,426
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- B. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - 3. No change
 - 4. No change
- C. No change
- D. No change
- E. No change
- F. The hourly rate is ~~\$122.00~~ \$181, beginning July 1, 2012, and shall remain in effect until it is either changed or repealed.
- G. Beginning July 1, 2026, the Director shall adjust the fee amounts in the columns of the Fee Tables titled "Maximum", the annual review for solid waste landfills flat fee in the Fee Table - Fees for Review of Financial Responsibility Plans for Solid Waste Facilities, and the hourly rate amount in subsection (F) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
 - 1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 - 2. Round the result from subsection (G)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

ARTICLE 8. GENERAL PERMITS

R18-13-801. General Permit Fees

- A. The Department shall assess annual fees for operation under a general permit established in rule as described in the Table below. Beginning July 1, 2026, the Director shall adjust the fee amounts in the Table below annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
 - 1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 - 2. Round the result from subsection (A)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.
- B. No change
- C. No change
- D. No change

Solid Waste General Permits

Category	Initial Fee	Annual Fee
Collection, Storage and Transfer-Standard	\$750 <u>\$1,114</u>	\$100 <u>\$149</u>
Collection, Storage and Transfer-Complex	\$7,500 <u>\$11,139</u>	\$1,000 <u>\$1,485</u>
Treatment-Standard	\$1,000 <u>\$1,485</u>	\$100 <u>\$149</u>
Treatment-Complex	\$10,000 <u>\$14,852</u>	\$1,000 <u>\$1,485</u>
Disposal	\$15,000 <u>\$22,279</u>	N/A

ARTICLE 11. COLLECTION, TRANSPORTATION, AND DISPOSAL OF HUMAN EXCRETA

R18-13-1103. General Requirements; License Fees

- A. Any person owning or operating a vehicle or appurtenant equipment used to store, collect, transport, or dispose of sewage or human excreta that is removed from a septic tank or other onsite wastewater treatment facility; earth pit privy, pail or can type privy, or other type of privy; sewage vault; or fixed or transportable chemical toilet shall obtain a license for each vehicle from the Department. The person shall apply, ~~in writing, on a forms form furnished approved~~ by the Department and shall demonstrate that each vehicle is designed and constructed to meet the requirements of this Article.
- B. No change
- C. License terms.
 - 1. For each ~~vehicle~~ newly licensed vehicle:
 - a. subject to inspection conducted by the Department pursuant to this Article after June 30, 2012, the initial license fee shall be \$250 ~~\$660, and shall~~ to be submitted with the license application, and the annual license fee shall be \$550; or

- b. subject to inspection conducted by a county pursuant to a delegation agreement with the Department, the initial license fee shall be \$270, to be submitted with the license application, and the annual license fee shall be \$225.
2. After initial licensure of a vehicle, the Department will renew the license annually after payment of a ~~\$75~~ the annual fee according to subsection (C)(3). The licensee shall submit renew by completing a the Department approved renewal form approved by the Department and submitting the annual license fee to the Department no later than 30 days before expiration.
2. ~~For those vehicles licensed before July 1, 2012, the initial license fee shall be \$75 and shall be paid within 30 days of receipt of an invoice from the Department. The license shall be valid for one year. The licensee shall submit the Department approved renewal form and the annual license fee of \$75 to the Department no later than 30 days before expiration.~~
3. Each vehicle license may be renewed if:
- The annual license fee is paid,
 - The owner or operator is in compliance with subsection (D) of this Section.
 - The vehicle is operated by the same person for the same purpose, ~~and~~
 - The vehicle has been inspected within the last 12 months pursuant to any inspection required under this Article and found in compliance with this Article, and
 - ~~e.~~ The vehicle is maintained according to this Article.
- D. No change
- E. Beginning July 1, 2026, the Director shall adjust the fee amounts in subsection (C) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
- Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 - Round the result from subsection (E)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

R18-13-1117. Reinstatement

- A. Upon request of the vehicle owner, the Department may reinstate a suspended or revoked vehicle license following a Department reinspection and based on an evaluation of compliance with the requirements of this Article.
- B. Upon request of a vehicle owner that fails to complete a renewal form approved by the Department and submit the annual license fee to the Department no later than 30 days before expiration, the Department may reinstate an expired vehicle license after completion of a renewal form, submitting the appropriate annual license fee, and following a Department determination of compliance with the requirements of this Article.

ARTICLE 12. WASTE TIRES: USED TIRES

R18-13-1201. Definitions

In addition to the definitions provided in A.R.S. § 44-1301, the following definitions apply in this Article:

- "Aquifer protection permit" means an authorization issued by the Department under A.R.S. § 49-241 et seq.
- "Burial cell" means an area where mining waste tires are placed in or on the land for burial.
- "Mining" means activities dedicated to the exploration, extraction, beneficiation, and processing, including smelting and refining, of metallic ores.
- "Mining facility" means any land, building, installation, structure, equipment, device, conveyance, or area dedicated to mining.
- "Mining waste tire" means an off-road tire that is greater than three feet in outside diameter that was used in mining.
- "Operator" means an owner, part owner, management agency, or lessee of a mining facility, a person responsible for the overall operation or control of a mining facility, or an authorized representative of the operator.
- "Person" is defined in A.R.S. § 49-201.
- "Waste tire collection site" is defined in A.R.S. § 44-1301.
- "Waste tire cover" means waste tires that are chopped or shredded into pieces that do not exceed four inches in diameter used for cover at a solid waste landfill.

R18-13-1211. Registration of New Waste Tire Collection Sites; Fee

- A. A new waste tire collection site shall not begin operation ~~after July 20, 2011,~~ until the owner or operator registers with the Department. The owner or operator shall register on a form approved by the Department that includes a statement that the site is in compliance with A.R.S. § 49-762.07(F) and A.R.S. Title 44, Chapter 9, Article 8, as applicable. The owner or operator of a new waste tire collection site ~~that begins operation after July 20, 2011,~~ shall pay an initial registration fee of ~~\$500~~ \$2,400 within 30 days of invoice receipt. ~~For purposes of this Section, "new waste tire collection site" means a waste tire collection site as defined in A.R.S. § 44-1301 that did not operate as a collection site on or before July 20, 2011.~~
- B. The owner or operator shall pay a ~~\$75~~ \$2,000 registration fee annually thereafter within 30 days of invoice receipt.
- C. Beginning July 1, 2026, the Director shall adjust the fee amounts in subsections (A) and (B) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
- Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 - Round the result from subsection (C)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

R18-13-1212. Registration of Outdoor Used Tire Sites; Fee

- A. A person shall not store 100 or more used tires outdoors until the person registers with the Department. A person that stores 100 or more used tires outdoors ~~after July 20, 2011,~~ shall pay an initial registration fee of ~~\$500~~ \$1,800 within 30 days of invoice receipt. The

person shall register on a form approved by the Department that includes a statement that the site is in compliance with A.R.S. § 49-762.07(F) and A.R.S. Title 44, Chapter 9, Article 8, as applicable.

- B. A ~~\$75~~ \$1,500 registration fee shall be paid annually thereafter within 30 days of invoice receipt.
- C. For the purposes of this Section:
 1. "Used tire" means any tire which has been used for more than one day on a motor vehicle.
 2. "Outdoors" means other than inside a building with a weatherproof roof.
- D. Beginning July 1, 2026, the Director shall adjust the fee amounts in subsections (A) and (B) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
 1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 2. Round the result from subsection (D)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

R18-13-1212.01. Waste Tire Collection Site Subject to Plan Approval; Fees

- A. Initial registration. A waste tire collection site that is required to obtain plan approval under A.R.S. § 49-762(A)(7) shall not begin operation until the owner or operator registers with the Department on a form approved by the Department.
- B. Annual registration fee. The Department shall bill an annual registration fee of \$5,000 to a registered waste tire collection site that is required to obtain plan approval under A.R.S. § 49-762(A)(7) that has not filed a notice of termination of registration with the Department. The owner or operator of the waste tire collection site that is required to obtain plan approval under A.R.S. § 49-762(A)(7) shall pay the annual registration fee within 30 days of invoice receipt.
- C. Beginning July 1, 2026, the Director shall adjust the fee amounts in subsection (B) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
 1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 2. Round the result from subsection (C)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

R18-13-1213. Facilities Subject to More Than One Tire Site Registration; Single Fee

A person who is required to register a tire facility under more than one of the Sections listed in subsections (1) through ~~(3)~~ (4) shall register and follow procedures under each Section, but is only required to pay the registration fees under the Section with the highest fees.

1. R18-13-1211.
2. R18-13-1212.
3. R18-13-1212.01.
- ~~3.4.~~ R18-13-501.

ARTICLE 13. SPECIAL WASTE AND BEST MANAGEMENT PRACTICES FOR SHREDDER RESIDUE

R18-13-1306. Reserved Fees

- A. Initial registration fee. Upon making a request for a special waste identification number on a form as provided by the Director, and shown as Appendix A to this Article, an applicant shall submit to the Department an initial registration fee for each operation as follows:
 1. For a generator of shredder residue, \$3,600; and
 2. For a special waste shipper, \$1,800.
- B. Annual registration fee. The Department shall bill an annual registration to a generator of shredder residue, a special waste receiving facility, and a special waste shipper that has a special waste identification number that has not filed a notice of termination of registration with the Department for each operation as follows:
 1. For a generator of shredder residue, \$3,000;
 2. For a special waste receiving facility, \$5,000; and
 3. For a special waste shipper, \$1,500.
- C. A generator of shredder residue, special waste receiving facility, or special waste shipper shall pay the annual registration fee within 30 days of invoice receipt.
- D. In accordance with A.R.S. § 49-855(G), a solid waste landfill that pays registration fees under A.R.S. § 49-747 is exempt from the fees under subsections (A) and (B) of this Section.
- E. Beginning July 1, 2026, the Director shall adjust the fee amounts in subsections (A) and (B) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
 1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 2. Round the result from subsection (E)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

R18-13-1307. Best Management Practices for Waste from Shredding Motor Vehicles; Fees

- A. No change
 1. No change
 - a. No change
 - i. No change
 - ii. No change

- b. No change
 - i. No change
 - ii. No change
- 2. No change
- 3. No change
- 4. No change
 - a. No change
 - b. No change
 - c. No change
- 5. No change
- 6. No change
- 7. No change
- 8. No change
- 9. No change
- 10. No change
- B.** No change
- C.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
- D.** No change
- E.** No change
- F.** Shredder residue which has been determined to be nonhazardous pursuant to this Section shall be transported in accordance with the requirements for transportation of garbage as set forth in R18-13-310.
- F.G.** The owner or operator of a special waste facility shall pay, to the Department, the fees required by A.R.S. §§ 49-855(C)(2) and 49-863 as follows:
 - ~~1.~~ ~~\$1.49 per cubic yard of uncompact shredder residue; or~~
 - ~~2.~~ ~~\$3.38 per cubic yard of compacted shredder residue received; or~~
 - ~~3.~~1. ~~\$4.50~~ \$6.68 per ton of shredder residue received; and
 - ~~4.~~2. ~~Not more than \$45,000~~ \$66,835.67 per generator site per year for shredder residue that is transported to a facility regulated by the Department for treatment, storage or disposal.
- G.H.** Shredder residue which has been determined to be nonhazardous pursuant to this Section shall be transported in accordance with the requirements for transportation of garbage as set forth in R18-13-310. Beginning July 1, 2026, the Director shall adjust the fee amounts in subsection (G) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
 - 1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 - 2. Round the result from subsection (H)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

ARTICLE 14. BIOHAZARDOUS MEDICAL WASTE AND DISCARDED DRUGS

R18-13-1409. Transporter License; Fees; Transportation

- A.** A transporter shall obtain a transporter license from the Department as provided under subsections (B) and (C) of this Section in addition to possessing a permit, license, or approval if required by a local health department, environmental agency, or other governmental agency with jurisdiction.
- B.** A transporter license is valid for five years after issuance. To renew the license, the licensee shall submit an application ~~under subsection (B)(1)~~ no later than 60 days prior to the license's expiration, and shall pay the ~~license renewal fee, as provided in subsection (B)(2)~~ (B)(1). With each application submitted for approval, the applicant shall remit an initial transporter license application fee ~~in accordance with Table 1. Fee Table—Transporter License Fees; Frequency of Application for Transporter License. This Table also lists the maximum fees that the Department will bill the applicant, as provided in subsection (B)(1).~~ All fees paid shall be payable to the state of Arizona. The Department shall deposit the fees paid into the Solid Waste Fee Fund established pursuant to A.R.S. § 49-881, unless otherwise authorized or required by law.
 - 1. To apply for or to renew a transporter license, an applicant shall submit all of the following in a Department-approved format:
 - a. The name, address, and telephone number of the transportation company or entity.
 - b. All owners' names, addresses, and telephone numbers.
 - c. All names, addresses, and telephone numbers of any agents authorized to act on behalf of the owner.
 - d. A copy of either the certificate of disclosure required by A.R.S. § 49-109 or a written acknowledgment that this disclosure is not required.
 - e. Photocopies or other evidence of the issuance of a permit, license, or approval if required by a local health department, environmental agency, or other governmental agency with jurisdiction.
 - f. A copy of the transportation management plan as defined in R18-13-1401.

- g. A list identifying each dedicated vehicle.
- h. ~~The For an~~ initial transporter application license application, a fee indicated in Table 1. Fee Table—Transporter License Fees; Frequency of Application for Transporter License: of \$1,800, and for a license renewal, a fee of \$1,500.
- 2. The new or renewal application license fee shall be calculated by multiplying the hourly rate of \$122 by the number of personnel hours involved in inspecting each transporting vehicle, evaluating the application, and approving the license, which amount shall be subtracted from the initial application license fee on deposit. Any remaining surplus of the initial application license fee on deposit shall be returned to the applicant. Any cost that exceeds the initial application license fee on deposit shall be billed to the applicant, but shall not exceed the maximum.
- 3.2. The Department may only issue a transporter license, including a renewal, if all of the items in subsection (B)(1)(a) through (h) have been received and determined to be correct and complete, and a Department inspection of each transporting vehicle shows that the vehicle is in compliance with this Article.
- C. Transporters shall pay by the invoice due date an annual fee of \$750 ~~\$1,500~~ for each calendar year following payment of the new or renewal application license fee and subsequent years in which a renewal application license fee is not charged and paid, ~~such as indicated~~ in Table 2. Fee Table, Transporters Annual Fee.
- D. Amendments. After issuance, the licensee shall submit to the Department any change to the information listed in subsections (B)(1)(a) through ~~(h)~~ (g) of this Section within 30 days of its occurrence. Vehicles may only be added to the license after a Department inspection shows that the vehicle is in compliance with this Article. Amendments adding vehicles to the license shall be processed after payment of inspection fees and other expenses at the rate listed in subsection (B)(2), except that the application fee shall be \$100 and the maximum fee \$5,000 ~~\$350~~.
- E. ~~An applicant who disagrees with the final bill received from the Department for the amendment, issuance, renewal or denial of a transporter license or vehicle inspections may make a written request to the Director for a review of the bill and may pay the bill under protest. The request for review shall specify the matters in dispute and shall be received by the Department within 10 working days of the date of receipt of the final bill.~~
- F. ~~Unless the Department and applicant agree otherwise, the review shall take place within 30 days of receipt by the Department of the request. The Director shall make a final decision as to whether the time and costs billed are correct and reasonable. The final decision shall be mailed to the applicant within 10 working days after the date of the review and is subject to appeal pursuant to A.R.S. §§ 41-1092 through 1092.12.~~
- ~~G.E.~~ No change
- ~~H.F.~~ No change
- ~~I.G.~~ No change
 - 1. No change
 - 2. No change
 - 3. No change
- ~~J.H.~~ A person who transports biohazardous medical waste in a vehicle not dedicated to the transportation of biohazardous medical waste, but that is used at least once weekly for a month, shall comply with the following:
 - 1. Subsections (A), ~~and (G)~~ (E) through ~~(K)~~ (G), and (I) of this Section.
 - 2. Clean the vehicle as prescribed in R18-13-1407(A)(2)(b) before it is used for another purpose.
- ~~K.I.~~ No change
 - 1. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - c. No change
 - 4. Not hold biohazardous medical waste longer than specified under subsection ~~(K)~~ (I)(3) unless the vehicle is parked at a Department-approved facility.
 - 5. No change
- J. Beginning July 1, 2026, the Director shall adjust the fee amounts in subsections (B), (C), and (D) of this Section, and Table 2. Fee Table, Transporters Annual Fee, annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
 - 1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 - 2. Round the result from subsection (J)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

Table 1. ~~Fee Table—Transporter License Fees; Frequency of Application for Transporter License~~ Transporter License Fees

	Initial	Maximum
New Application	\$2,000	\$20,000
Renewal Application	\$2,000	\$20,000

Amendment Application	\$100	\$5,000
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Frequency of Application for Transporter License

Year	Type of Application	Frequency
1	New	Once
6, 11, 16, etc.	Renewal	Every 5th Year

Table 2. Fee Table – Transporter Annual Fee

Years	Amount
2, 3, 4, 5, 7, 8, 9, 10, 12, 13 , etc.	\$750 \$1,500

R18-13-1410. Storage, Transfer, Treatment, and Disposal Facilities; Facility Plan Approval; Fees

- A. A person shall obtain solid waste facility plan approval from the Department as prescribed in A.R.S. § 49-762.04 and pursuant to R18-13-702 to construct any facility that will be used to store, transfer, treat, or dispose of biohazardous medical waste that was generated off site. Plan approval shall be obtained before starting construction of the medical waste treatment or disposal facility. This requirement also applies to solid waste facilities for which an operator self-certifies under A.R.S. § 49-762.05, if the facility also will receive biohazardous medical waste.
- B. No change
- C. No change
- D. Annual registration fee. The Department shall bill an annual registration fee to a biohazardous medical waste facility described in subsection (A) of this Section as follows:
 - 1. For a disposal or treatment facility, \$12,500;
 - 2. For a storage facility, \$7,500; and
 - 3. For a transfer facility, \$3,000.
- E. A facility subject to more than one fee under subsection (D) of this Section shall only pay the highest fee amount.
- F. The biohazardous medical waste facility shall pay the annual registration fee within 30 days of invoice receipt.
- G. Beginning July 1, 2026, the Director shall adjust the fee amounts in subsection (D) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
 - 1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 - 2. Round the result from subsection (G)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

ARTICLE 16. BEST MANAGEMENT PRACTICES FOR PETROLEUM CONTAMINATED SOIL

R18-13-1606. Fees

- A. In accordance with A.R.S. §§ 49-855(C)(2) and 49-863, the treatment, storage, or disposal facility in this state that first receives a shipment of PCS shall remit to the Department a fee of ~~\$4.50~~ \$6.68 per ton but not more than ~~\$45,000~~ \$66,835.67 per generator site per year for PCS that is transported to the facility.
- B. Initial registration fee. Upon making a request for a special waste identification number on a form as provided by the Director pursuant to Article 13, A generator of PCS shall submit to the Department an initial registration fee of \$900.
- C. Annual registration fee. The Department shall bill an annual registration fee to a generator of PCS or special waste receiving facility that has received facility approval under R18-13-1607 that has not filed a notice of termination of registration with the Department as follows:
 - 1. For a generator of PCS, \$750; and
 - 2. For a special waste receiving facility, \$5,000.
- D. The generator of PCS or special waste receiving facility shall pay the annual registration fee within 30 days of invoice receipt.
- E. In accordance with A.R.S. § 49-855(G), a solid waste landfill that pays registration fees under A.R.S. § 49-747 is exempt from the annual registration fee under subsection (C) of this Section.
- F. Beginning July 1, 2026, the Director shall adjust the fee amounts in subsections (A), (B), and (C) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:

1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
2. Round the result from subsection (F)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

ARTICLE 19. LEAD ACID BATTERY RECYCLING

R18-13-1901. Collection or Recycling Facility of Lead Acid Batteries: Registration: Fees

- A.** Initial registration. The owner or operator of an existing collection or recycling facility that accepts lead acid batteries as of the effective date of this Section shall register with the Department by March 1, 2025, on a form approved by the Department. A collection or recycling facility shall not begin operation to accept lead acid batteries until the owner or operator registers with the Department on a form approved by the Department that includes a statement that the facility is in compliance with A.R.S. § 44-1322. The owner or operator of a new collection or recycling facility of lead acid batteries shall submit an initial registration fee of \$810 at the time of registration under this subsection.
- B.** Annual registration fee. The Department shall bill an annual registration fee of \$675 to a registered collection or recycling facility that has not filed a notice of termination of registration with the Department. The owner or operator of a registered collection or recycling facility shall pay the annual registration fee within 30 days of invoice receipt.
- C.** Beginning July 1, 2026, the Director shall adjust the fee amounts in subsections (A) and (B) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 2. Round the result from subsection (C)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.
- D.** For purposes of this Section, "lead acid battery" means a battery with a core of elemental lead and a capacity of six or more volts that is suitable for use in a vehicle or a boat.

ARTICLE 20. USED OIL

R18-13-2001. Definitions

- A.** "40 CFR 279", and any section therein, refers to 40 CFR part 279, as amended on January 1, 1997, and no future editions or later amendments. Copies of 40 CFR 279 are available at <https://www.govinfo.gov/app/collection/cfr/>. Copies are on file with the Department.
- B.** "CFR" means the Code of Federal Regulations.
- C.** "Department" means the Arizona Department of Environmental Quality.
- D.** "Used oil" means the same as defined in 40 CFR 279.1 and includes oil that has been contaminated as a result of handling, transportation, or storage.
- E.** "Used oil collection center" means the same as defined in 40 CFR 279.1.
- F.** "Used oil burner" means the same as defined in 40 CFR 279.1.
- G.** "Used oil fuel marketer" means the same as defined in 40 CFR 279.1.
- H.** "Used oil handler" means a used oil burner, used oil marketer, used oil transporter, or used oil processor.
- I.** "Used oil processor" means the same as defined in 40 CFR 279.1.
- J.** "Used oil transporter" means the same as defined in 40 CFR 279.1.

R18-13-2002. Used Oil Handler Registration: Fee

- A.** Initial registration. A new used oil handler that has received, or is required to obtain, an EPA identification number pursuant to 40 CFR 279 shall not begin operation until the owner or operator registers with the Department on a form approved by the Department. A new used oil handler shall submit an initial registration fee at the time of registration under this subsection as follows:
1. For a used oil processor, \$9,000;
 2. For a used oil burner, \$15,000;
 3. For a used oil transporter, \$1,800; and
 4. For a used oil fuel marketer, \$1,800.
- B.** Annual registration fee. The Department shall bill an annual registration fee to a used oil handler that has received, or is required to obtain, an EPA identification number pursuant to 40 CFR 279 that has not filed a notice of termination of registration with the Department as follows:
1. For a used oil processor, \$7,500;
 2. For a used oil burner, \$12,500;
 3. For a used oil transporter, \$1,500; and
 4. For a used oil fuel marketer, \$1,500.
- C.** The registered used oil handler shall pay the annual registration fee within 30 days of invoice receipt.
- D.** Beginning July 1, 2026, the Director shall adjust the fee amounts in subsections (A) and (B) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.

2. Round the result from subsection (D)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

R18-13-2003. Used Oil Collection Center Identification Number: Requirements

- A.** A used oil collection center shall request a used oil collection center identification number on a form provided by the Director pursuant to A.R.S. § 49-802(C) that contains all of the following:
1. The company name;
 2. The name of the owner of the company;
 3. The mailing address and telephone number of the company;
 4. The location of the collection center; and
 5. A description of the type of used oil activity at the company.
- B.** Within 30 days of receiving the completed form, the Director shall issue the identification number to the used oil collection center.

ARTICLE 21. SOLID WASTE LANDFILL REGISTRATION AND DISPOSAL FEES

R18-13-2101. Definitions

In addition to the definitions in A.R.S. §§ 49-701 and 49-701.01, for the purpose of this Article, the terms used in this Article have the following meanings:

1. "Defined time period" means the 12-month period that begins on July 1 of a calendar year and ends on June 30 of the following calendar year and consists of the actual number of calendar days in that 12-month period.
2. "Disposal fee invoice" means the quarterly landfill disposal fee invoice the Department mails to a landfill operator, on which the landfill operator indicates the amount of waste received and the amount of the disposal fees owed to the Department as required under A.R.S. § 49-836.
3. "Full quarter" means any of the standard fiscal quarters of the defined time period for which a municipal solid waste landfill accepted waste on or before the first day of the quarter and on or after the last day of that quarter.
3. "Local public facility" means a facility operated pursuant to A.R.S. § 49-741.
4. "Recycling residue" means waste generated from recycling:
 - a. solid waste; or
 - b. effluent from a secondary wastewater treatment plant or wastewaters.

R18-13-2102. Solid Waste Landfill Registration; Annual Registration Fee for an Existing Solid Waste Landfill

- A.** An operator of a new solid waste landfill shall register the solid waste landfill with the Department on a form approved by the Department.
- B.** An existing solid waste landfill, except those described in subsection (C), shall pay an annual registration fee within 30 days of receipt of an invoice from the Department according to the following:
1. For municipal solid waste landfills that received less than 12,000 60,000 tons during the defined time period, \$1,250 \$5,000.
 2. For municipal solid waste landfills that received at least 12,000 60,000 tons but less than 60,000 225,000 tons during the defined time period, \$2,500 \$10,000.
 3. For municipal solid waste landfills that received at least 60,000 tons but less than 225,000 tons or more during the defined time period, \$7,500 \$18,565.
 4. For municipal solid waste landfills that received 225,000 tons or more during the defined time period, \$12,500.
 5. Non-municipal solid waste landfills shall pay a flat fee of \$3,750.
 6. Solid waste landfills that are closed to the public and that accept nonhazardous waste only shall pay a flat fee of \$3,750.
- B.C.** The Department shall determine the amount of waste received by a municipal solid waste landfill by one of the following methods:
1. For a municipal solid waste landfill that accepted waste over the entire defined time period:
 - a. As the reported tons of solid waste received on the disposal fee invoice invoices over the defined time period; or
 - b. As the reported units of compacted or uncompacted solid waste received on the disposal fee invoice invoices and reported under A.R.S. § 49-836(A)(1); or R18-13-2104 over the defined time period.
 2. For a municipal solid waste landfill that accepted waste for only a portion of the defined time period, but no less than a full quarter, the Department shall project the total amount of waste that would have been received by the landfill over the entire defined time period, using one of the following methods:
 - a. For a municipal solid waste landfill that reported receiving waste for at least a full three quarters but less than the entire defined period, the amount of waste for the remaining quarter is the total amount of the waste reported for the full three quarters divided by three;
 - b. For a municipal solid waste landfill that reported receiving waste for at least a full two quarters but less than three quarters, the amount of waste for the remaining two quarters is the same as the total amount of waste reported for the two full quarters; or
 - e. For a municipal solid waste landfill that reported receiving waste for at least one full quarter but less than two quarters, the amount of waste for the remaining three quarters is the total of the amount of the waste reported for the full quarter multiplied by three.
- C.** For a municipal solid waste landfill that accepted waste for less than a full quarter, the annual landfill registration fee is \$1,250.
- D.** Beginning July 1, 2026, the Director shall adjust the fee amounts in subsection (B) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.

2. Round the result from subsection (C)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

R18-13-2103. Annual Landfill Registration: Due Date and Fees Landfill Closure and Post-Closure Care Obligations: Fees

- A.** An operator of a new solid waste landfill shall register the solid waste landfill and pay the landfill registration fee as follows:
1. The operator shall pay the initial landfill registration fee within 30 days of the date that the Department approves the facility plan. The initial landfill registration fee is \$1,250.
 2. Registration is valid for one year, except if the landfill is initially registered during October, November, or December of a calendar year, the next landfill registration due date is December 31 of the following calendar year and each calendar year thereafter unless released from the annual landfill registration requirement as specified in subsection (C).
 3. The annual registration fee remains \$1,250 until the first annual registration period after the first full quarter of the defined time period.
- B.A.** After the first full quarter, the Department shall calculate the annual registration fee according to R18-13-2102, and specify the fee on the Department's annual landfill registration invoice for the solid waste landfill. The Department shall calculate and the solid waste landfill shall pay the annual landfill registration fee until the first registration defined time period after the solid waste landfill stops accepting waste during a fiscal quarter of the defined time period.
- C.B.** From the time a solid waste landfill stops accepting waste as specified in subsection (B) (A), until the owner or operator of the solid waste landfill is released from its obligation to provide financial assurance for closure has completed closure and is released from its obligation for post-closure care as required by A.R.S. §§ 49-761 or 49-770, the annual registration fee is ~~\$1,250~~ \$3,500.
- C.** Beginning July 1, 2026, the Director shall adjust the fee amounts in subsection (B) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 2. Round the result from subsection (C)(1) to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

R18-13-2104. Solid Waste Landfill Disposal Fee: Exemptions

- A.** The operator of a solid waste landfill shall pay to the Department the disposal fee required by A.R.S. § 49-836 as follows:
1. \$.58 for each six cubic yards of uncompacted solid waste;
 2. \$.58 for each three cubic yards of compacted solid waste; or
 3. \$.58 per ton of solid waste.
- B.** A solid waste landfill that receives only waste generated on site shall compute the fee in subsection (A) of this Section by one of the following methods:
1. By actual volume or weight; or
 2. By estimate based on landfill capacity use, volume or number of waste loads or any other reasonable means for approximating the volume or weight of disposed waste.
- C.** Facilities that generate recycling residue shall pay the disposal fee required by A.R.S. § 49-836 as follows, to an annual maximum of \$34,942.20, for on-site disposal:
1. \$.29 for the dry weight or volume of the recycling residue generated; or
 2. \$.29 for the dewatered weight or volume of the recycling residue generated.
- D.** A person who for a fee disposes of waste in a solid waste landfill that is not regulated by the Department shall keep accurate records of the waste disposed of in those landfills and shall pay to the Department the disposal fee as prescribed in subsection (A) of this Section.
- E.** The operator of a local public facility that does not have on-site operators or scales shall pay to the Department a fee that shall be calculated by multiplying the population of the political subdivision served by the local public facility by \$.16.
- F.** A person who is subject to fees under this Section shall sign and submit a form prepared by the Department with each fee payment. The form shall state the total volume or weight of solid waste disposed of at that landfill during the payment period.
- G.** The following are exempt from the requirements of this Section:
1. Persons disposing of a load containing less than six cubic yards of uncompacted solid waste or three cubic yards of compacted solid waste.
 2. A site used solely for the reclamation of land through the introduction of landscaping rubble or inert material.
 3. Material produced in connection with a mining or metallurgical operation.

ARTICLE 22. NEW TIRE SELLERS

R18-13-2201. Definitions

- A.** "Motor vehicle" means any automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination or other vehicle operated on the roads of this state, used to transport persons or property and propelled by power other than muscular power, but motor vehicle does not include traction engines, vehicles that run only on a track, bicycles or mopeds.
- B.** "Tire seller" means a retail seller of motor vehicle tires or a wholesale seller of motor vehicle tires who sells tires to the state, to a political subdivision of the state, or to a private entity not for resale, and includes a person whose retail sales of new motor vehicle tires are not in the ordinary course of business.

R18-13-2202. New Tire Sellers: Fee

- A.** Beginning April 1, 2025, a tire seller of new motor vehicle tires shall collect a fee of 2% of the retail sales price, not including transaction privilege tax, of each tire to a maximum of \$4.66 per tire. For the sale of a new motor vehicle with a gross weight of under 10,000 pounds by a manufacturer to a wholesaler or retailer, if the sales price of the tires is not specified by the manufacturer, the tire seller shall collect a fee of \$2.33 per tire.

- B.** A seller required to collect a fee under subsection (A) of this Section may credit \$.10 per tire against the fee for expenses incurred by the seller for accounting and reporting related to the fee.
- C.** A seller who collects a fee under subsection (A) of this Section shall remit the fee to the Arizona Department of Revenue for deposit on a quarterly basis in the waste tire fund established pursuant to section A.R.S. § 44-1305.
- D.** Beginning July 1, 2026, the Director shall adjust the fee amounts in subsection (A) of this Section annually by the following method, except that no adjustment in any year shall exceed four percent of the fee amount of the preceding year:
1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.
 2. Round the result from subsection (D)(1) to the nearest cent. ADEQ shall notify the Arizona Department of Revenue of the adjusted fee amounts and post the new amounts on its webpage as soon as practicable.

NOTICES OF PROPOSED EXPEDITED RULEMAKING

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

Expedited rulemaking is a rulemaking process that does not increase the cost of regulatory compliance, or increase a fee, or reduce procedural rights of persons regulated. Other requirements to conduct expedited rulemaking are listed under A.R.S. § 41-1027.

Under A.R.S. § 41-1027(C), the Governor's Regulatory Review Council also posts Notices of Proposed Expedited Rulemakings on its website and allows any person to provide written comment for at least 30 days after posting the notice.

Questions about the interpretation of expedited rules should be addressed to the agency promulgating the rules.

Refer to item 4 to contact the person charged with the rulemaking.

NOTICE OF PROPOSED EXPEDITED RULEMAKING

TITLE 9. HEALTH SERVICES

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

[R24-310]

PREAMBLE

1. Permission to proceed with this proposed expedited rulemaking was granted under A.R.S. § 41-1039 by the governor on:

December 3, 2024

2. Article, Part, or Section Affected (as applicable)

Rulemaking Action

R9-10-501	Amend
R9-10-503	Amend
R9-10-506	Amend
R9-10-507	Amend
R9-10-508	Amend
R9-10-509	Amend
R9-10-510	Amend
R9-10-511	Amend
R9-10-512	Amend
R9-10-514	Amend
R9-10-515	Amend
R9-10-516	Amend
R9-10-518	Amend
R9-10-520	Amend
R9-10-522	Amend
R9-10-525	Amend

3. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. §§ 36-132(A)(1) and (17) and 36-136(G)
 Implementing statute: A.R.S. §§ 36-405, 36-406, 36-407, and 36-425.05

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

Notice of Rulemaking Docket Opening: 30 A.A.R. 3781; Issue date: December 13, 2024; Issue number: 50; File number: R24-283

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

Name: Thomas Salow
 Title: Assistant Director
 Division: Public Health Licensing
 Address: 150 N. 18th Ave., Suite 500
 Phoenix, AZ 85007
 Telephone: (602) 542-6383
 Email: Thomas.Salow@azdhs.gov
 or
 Name: Stacie Gravito
 Title: Office Chief, Administrative Counsel and Rules

Division: Policy and Intergovernmental Affairs
 Address: 150 N. 18th Ave., Suite 200
 Phoenix, AZ 85007
 Telephone: (602) 542-1020
 Fax: (602) 364-1150
 Email: stacie.gravito@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:

Pursuant to Arizona Revised Statutes (A.R.S.) § 36-405, the Arizona Department of Health Services (the Department) is required to establish minimum standards for health care institutions, including requirements for construction, equipment, sanitation, staffing for medical, nursing, and personal care services, and recordkeeping to protect public health, safety, and welfare. The rules in 9 A.A.C. 10, Article 5 pertain specifically to Intermediate Care Facilities for Individuals with Intellectual Disabilities. The Department proposes amendments to these rules based on findings from a five-year-review report approved by the Governor's Regulatory Review Council. The Department plans to amend the rules align the rules more closely with statutes, other health care institution rules in A.A.C. Title 9, Chapter 10, and Centers for Medicare and Medicaid Services (CMS) requirements under 42 CFR 483, Subpart I; correct cross-references and citations; improve clarity, conciseness, and overall understandability; eliminate obsolete or duplicative provisions; and ensure consistency across related rules. Additionally, the Department seeks to amend rules as necessary for the effective administration and enforcement of public health laws, with the goal of promoting continuity and improving patient outcomes. On December 2, 2024, the Department received approval from the Governor's Office, in accordance with A.R.S. § 41-1039(A), to proceed with rulemaking. The proposed changes will adhere to the current rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State, and the Department may add, amend, repeal, or renumber rules as necessary to achieve these objectives.

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.

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 statement that the agency is exempt from the requirements under A.R.S. § 41-1055(G) to obtain and file a preliminary summary of the economic, small business, and consumer impact under A.R.S. § 41-1055(D)(2):

This rulemaking is exempt from the requirements to obtain and file an economic, small business, and consumer impact under A.R.S. § 41-1055(D)(2).

10. Where, when, and how a person may provide written comments on the proposed expedited rule:

A person may submit written comments no later than the close of record to the person listed under item #5.

Close of Record: January 28, 2025

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:

There are no other matters prescribed by statutes applicable specifically to the Department or this specific rulemaking.

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 the issuance of a regulatory permit. Therefore, a general permit is 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:

There are no federal laws applicable to the subject of these rules.

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 under A.R.S. § 41-1055(I). If yes, include the analysis with the rulemaking package.

No business competitiveness analysis was submitted to the Department.

12. List all incorporated by reference material as specified in A.R.S. § 41-1028 and include a citation where the material is located:

Not applicable.

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

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

ARTICLE 5. INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES

Section

- R9-10-501. Definitions
- R9-10-503. Administration
- R9-10-506. Personnel
- R9-10-507. Admission
- R9-10-508. Transfer; Discharge
- R9-10-509. Transport
- R9-10-510. Transportation; Resident Outings
- R9-10-511. Resident Rights
- R9-10-512. Medical Records
- R9-10-514. Individual Program Plan
- R9-10-515. Seclusion; Restraint
- R9-10-516. Physical Health Services
- R9-10-518. Clinical Laboratory Services
- R9-10-520. Medication Services
- R9-10-522. Food Services
- R9-10-525. Physical Plant Standards

ARTICLE 5. INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES

R9-10-501. Definitions

In addition to the definitions in A.R.S. §§ 36-401 and 36-551 and R9-10-101, the following definitions apply in this Article unless otherwise specified:

1. “Active treatment” means rehabilitative services and habilitation services provided to a resident to address the resident’s developmental disability and, if applicable, medical condition.
2. “Acuity” means a resident’s need for medical services, nursing services, rehabilitative services, or habilitation services based on the patient’s medical condition or developmental disability.
3. “Acuity plan” means a method for establishing requirements for nursing personnel or therapists by unit based on a resident’s acuity.
4. “Advocate” means an individual who:
 - a. Assists a resident or the resident’s representative to make the resident’s wants and needs known,
 - b. Recommends a course of action to address the resident’s wants and needs, and
 - c. Supports the resident or the resident’s representative in addressing the resident’s wants and needs.
5. “Assistive device” means a piece of equipment or mechanism that is designed to enable an individual to better carry out activities of daily living.
6. “Dental services” means activities, methods, and procedures included in the practice of dentistry, as described in A.R.S § 32-1202.
7. “Direct care” means medical services, nursing services, rehabilitation services, or habilitation services provided to a resident.
8. “ICF/IID” means intermediate care facility for individuals with intellectual disabilities.
- ~~8-9.~~ “Inappropriate behavior” means actions by a resident that may:
 - a. Put the resident at risk for physical illness or injury,
 - b. Significantly interfere with the resident’s care,
 - c. Significantly interfere with the resident’s ability to participate in activities or social interactions,
 - d. Put other residents or personnel members at significant risk for physical injury,
 - e. Significantly intrude on another resident’s privacy, or
 - f. Significantly disrupt care for another resident.
- ~~9-10.~~ “Medical care plan” means a documented guide for providing medical services and nursing services to a resident requiring continuous nursing services that includes measurable objectives and the methods for meeting the objectives.
- ~~10-11.~~ “Nursing care plan” means a documented guide for providing intermittent nursing services to a resident that includes measurable objectives and the methods for meeting the objectives.
- ~~11-12.~~ “Outing” means a social or recreational activity or habilitation services that:
 - a. Occur away from the premises, and
 - b. May be part of a resident’s individual program plan.
- ~~12-13.~~ “Qualified intellectual disabilities professional” means one of the following who has at least a bachelor’s degree and one year of experience working directly with individuals who have developmental disabilities, consistent with the requirements in 42 CFR 483.430:
 - a. A physician;
 - b. A registered nurse;
 - c. A physical therapist;
 - d. An occupational therapist;
 - e. A psychologist, as defined in A.R.S. § 32-2061;
 - f. A speech-language pathologist;
 - g. An audiologist, as defined in A.R.S. § 36-1901;
 - f. A registered dietitian, as defined in A.R.S. § 36-416;
 - g. A licensed clinical social worker under A.R.S. § 32-3293; or
 - h. A nursing care institution administrator.

~~13~~.14. “Resident’s representative” has the same meaning as “responsible person” in A.R.S. § 36-551.

R9-10-503. Administration

- A.** No change
1. No change
 2. No change
 3. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 4. No change
 5. No change
 6. No change
 - a. No change
 - b. No change
 7. No change
- B.** No change
1. No change
 2. No change
 3. No change
 4. No change
- C.** An administrator shall ensure that:
1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - i. No change
 - ii. No change
 - e. No change
 - f. No change
 - g. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - h. No change
 - i. No change
 - j. No change
 - k. No change
 - i. No change
 - ii. 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
 2. Policies and procedures for active treatment and other physical health services and behavioral care are established, documented, and implemented to protect the health and safety of a resident that:
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - i. No change
 - ii. No change
 - iii. No change
 - h. No change

- i. No change
 - ii. No change
 - i. No change
 - i. No change
 - ii. No change
 - j. Cover ~~telemedicine~~ telehealth, if applicable;
 - k. No change
 - l. No change
 - m. No change
 - n. No change
 - o. No change
 - p. No change
 - q. No change
- 3. No change
- 4. No change
- 5. No change
 - a. No change
 - b. No change
- D.** No change
 - 1. No change
 - 2. No change
- E.** No change
 - 1. No change
 - 2. No change
- F.** If an administrator has a reasonable basis, according to A.R.S. §§ 13-3620 or 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a resident is receiving services from an ICF/IID's employee or personnel member, an administrator shall:
 - 1. ~~If applicable, take~~ Take immediate action to stop the suspected abuse, neglect, or exploitation;
 - 2. Report the suspected abuse, neglect, or exploitation of the resident as follows:
 - a. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 - b. For a resident under 18 years of age, according to A.R.S. § 13-3620;
 - c. Report to the Department:
 - i. Immediately but not later than two hours if the alleged violation involves abuse or results in serious bodily injury; or
 - ii. Not later than 24 hours if the alleged violation involves neglect, exploitation, mistreatment, or misappropriation of resident property; and does not result in serious bodily injury
 - 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
 - 4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 - 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the resident related to the suspected abuse or neglect and any change to the resident's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 - 6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- G.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - d. No change
 - e. No change
 - i. No change
 - ii. No change
- H.** No change
 - 1. No change
 - 2. No change

- I.** An administrator shall:
1. Notify a resident's representative, family member, or other individual designated by the resident ~~within one calendar day~~ immediately, with no delay between staff awareness of the occurrence and reporting unless the situation is unstable in which case reporting should occur as soon as the safety of the resident is assured, after:
 - a. The resident's death,
 - b. There is a significant change in the resident's medical condition, or
 - c. The resident has an illness or injury that requires immediate intervention by an emergency medical services provider or treatment by a health care provider; and
 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
- J.** No change
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
- K.** No change
1. No change
 - a. No change
 - b. No change
 2. No change
- L.** No change
1. No change
 - a. No change
 - b. No change
 2. No change
 3. No change
- M.** No change
1. No change
 2. No change
 3. No change
- N.** No change
1. No change
 2. No change

R9-10-506. Personnel

- A.** No change
1. No change
 - a. No change
 - b. No change
 2. No change
 3. No change
 4. No change
- B.** An administrator shall ensure that:
1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of active treatment or other physical health services or behavioral care expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the residents receiving active treatment or other physical health services or behavioral care from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected active treatment or other physical health services and behavioral care listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected active treatment or other physical health services or behavioral care listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected active treatment or other physical health services or behavioral care listed in the established job description;
 2. A personnel member's skills and knowledge are verified and documented:

- a. Before the personnel member provides active treatment or other physical health services or ~~and~~ behavioral care, and
 - b. According to policies and procedures; and
 - 3. Sufficient personnel members are present on an ICF/IID’s premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the ICF/IID’s scope of services,
 - b. Meet the needs of a resident, and
 - c. Ensure the health and safety of a resident.
- C. No change
 - 1. No change
 - 2. No change
- D. No change
- E. No change
- F. No change
 - 1. No change
 - 2. No change
- G. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 3. No change
- H. No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - i. No change
 - ii. No change
 - iii. No change
 - 2. No change
 - a. No change
 - b. No change
- I. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 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. No change
 - j. No change
 - k. No change
- J. No change
 - 1. No change
 - a. No change
 - b. No change
 - 2. No change
- K. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - c. No change
 - 4. No change
 - 5. No change
 - a. No change
 - b. No change
 - c. No change
 - 6. No change

- L. No change
1. No change
 2. No change
- M. An administrator shall ensure that a fall prevention and fall recovery program that complies with requirements in A.R.S. § 36-420.01 is developed, documented, and implemented.

R9-10-507. Admission

An administrator shall ensure that:

1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
2. No change
3. At the time of a resident's admission, a registered nurse conducts or coordinates an initial assessment ~~on~~ of a resident to determine the resident's acuity and ensure the resident's immediate needs are met;
4. No change
5. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
6. No change
7. No change
 - a. No change
 - b. No change
8. No change
9. No change
 - a. No change
 - b. No change
10. No change
 - a. No change
 - b. No change

R9-10-508. Transfer; Discharge

- A. No change
1. No change
 - a. No change
 - b. No change
 2. No change
 - a. No change
 - b. No change
 - c. No change
 - i. No change
 - ii. No change
 - d. No change
 - e. No change
- B. Except for a transfer of a resident due to an emergency, an administrator shall ensure that:
1. No change
 2. According to policies and procedures:
 - a. No change
 - b. No change
 - c. A personnel member explains the risks and benefits of the transfer to the resident or the resident's representative; and
 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- C. No change
1. No change
 - a. No change
 - b. No change
 2. No change
 3. No change
 - a. No change

- b. No change
- c. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - vi. No change

R9-10-509. Transport

- A. Except as provided in subsections (B) and (C), an administrator shall ensure that:
 - 1. A personnel member authorized by policies and procedures coordinates the transport and the services provided to the resident;
 - 2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before and after the transport,
 - b. Information from the resident's medical record is provided to a receiving health care institution, and
 - c. A personnel member explains the risks and benefits of the transport to the resident or the resident's representative; and
 - 3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transport.
- B. No change
 - 1. No change
 - 2. No change
 - 3. No change
- C. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change

R9-10-510. Transportation; Resident Outings

- A. No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - i. No change
 - ii. No change
 - iii. No change
 - e. No change
 - 4. No change
 - a. No change
 - b. No change
- B. No change
- C. An administrator shall ensure that:
 - 1. Except when only one resident is participating in an outing, at least two personnel members are present on the outing;
 - 2. In addition to the personnel members required in subsection (C)(1), a sufficient number of personnel members are present on an outing to ensure the health and safety of a resident on the outing;
 - 3. Each personnel member on the outing has documentation of current training in cardiopulmonary resuscitation according to R9-10-503(C)(1)(g) and first aid training according to R9-10-503(C)(1)(h);
 - 4. Documentation is developed before an outing that includes:
 - a. The name of each resident participating in the outing;
 - b. A description of the outing;
 - c. The date of the outing;
 - d. The anticipated departure and return times;
 - e. The name, address, and, if available, telephone number of the outing destination; and
 - f. If applicable, the license plate number of a vehicle used to provide transportation for the outing;
 - 5. The documentation described in subsection (C)(4) is updated to include the actual departure and return times and is maintained for at least 12 months after the date of the outing; and

6. Emergency information for a resident participating in the outing is maintained by a personnel member participating in the outing or in the vehicle used to provide transportation for the outing and includes:
 - a. The resident's name;
 - b. Medication information, including the name, dosage, route of administration, and directions for each medication needed by the resident during the anticipated duration of the outing;
 - c. The resident's allergies; and
 - d. The name and telephone number of a designated individual, who is present on the ICF/IID's premises, to notify in case of an emergency.

R9-10-511. Resident Rights

- A. No change
 1. No change
 2. No change
 3. No change
 - a. No change
 - b. No change
- B. An administrator shall ensure that:
 1. A resident has privacy in:
 - a. Treatment,
 - b. Bathing and toileting,
 - c. Room accommodations, and
 - d. Visiting or meeting with another resident or an individual;
 2. A resident is treated with dignity, respect, and consideration;
 3. A resident is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Except as allowed in R9-10-515, seclusion or restraint;
 - i. Retaliation for submitting a complaint to the Department or another entity;
 - j. Misappropriation of personal and private property by an ICF/IID's personnel members, employees, volunteers, or students; or
 - k. Segregation solely ~~on the basis of~~ based on the resident's disability; and
 4. A resident or the resident's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of proposed alternatives to psychotropic medication and the associated risks and possible complications of the psychotropic medication;
 - d. Is informed of the following:
 - i. The health care institution's policy on health care directives, and
 - ii. The resident complaint process;
 - e. Consents to photographs of the resident before the resident is photographed, except that the resident may be photographed when admitted to an ICF/IID for identification and administrative purposes;
 - f. May manage the resident's financial affairs;
 - g. Has access to and may communicate with any individual, organization, or agency;
 - h. Except as provided in the resident's individual program plan, has privacy:
 - i. In interactions with other residents or visitors to the ICF/IID,
 - ii. In the resident's mail, and
 - iii. For telephone calls made by or to the resident;
 - i. May review the ICF/IID's current license survey report and, if applicable, plan of correction in effect;
 - j. May review the resident's financial records within two working days and medical ~~record~~ records within one working day after the resident's or the resident's representative's request;
 - k. May obtain a copy of the resident's financial records and medical ~~record~~ records within two working days after the resident's request and in compliance with A.R.S. § 12-2295;
 - l. Except as otherwise permitted by law, consents, in writing, to the release of information in the resident's:
 - i. Medical record, and
 - ii. Financial records;
 - m. May select a pharmacy of choice if the pharmacy complies with policies and procedures and does not pose a risk to the resident;
 - n. Is informed of the method for contacting the resident's attending physician;
 - o. Is informed of the resident's overall physical and psychosocial well-being, as determined by the resident's comprehensive assessment;
 - p. Is provided with a copy of those sections of the resident's medical record that are required for continuity of care free of charge, according to A.R.S. § 12-2295, if the resident is transferred or discharged; and

- q. Except in the event of an emergency, is informed orally or in writing before the ICF/IID makes a change in a resident's room or roommate assignment and notification is documented in the resident's medical record.
- C. In addition to the rights in A.R.S. § 36-551.01, a resident has the following rights:
1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive treatment that supports and respects the resident's individuality, choices, strengths, and abilities;
 3. To choose activities and schedules consistent with the resident's interests that do not interfere with other residents;
 4. To participate in social, religious, political, and community activities that do not interfere with other residents;
 5. To retain personal possessions including furnishings and clothing as space permits unless the use of the personal possession infringes on the rights or health and safety of other residents;
 6. To share a room with the resident's spouse if space is available and the spouse consents;
 7. To receive a referral to another health care institution if the ICF/IID is not authorized or not able to provide active treatment or other physical health services or behavioral care needed by the resident;
 8. To participate or have the resident's representative participate in the development of the resident's individual program plan or decisions concerning treatment;
 9. To participate or refuse to participate in research or experimental treatment; and
 10. To receive assistance from a family member, the resident's representative, or other individual in understanding, protecting, or exercising the resident's rights.

R9-10-512. Medical Records

- A. No change
1. No change
 2. No change
 - a. No change
 - b. No change
 - c. No change
 3. No change
 - a. No change
 - b. No change
 - c. No change
 4. No change
 5. No change
 - a. No change
 - b. No change
 - c. No change
 6. No change
- B. No change
1. No change
 2. No change
- C. An administrator shall ensure that a resident's medical record contains:
1. Resident information that includes:
 - a. The resident's name;
 - b. The resident's date of birth; and
 - c. Any known allergies, including medication allergies;
 2. The admission date and, if applicable, the date of discharge;
 3. The admitting diagnosis or presenting symptoms;
 4. Documentation of the resident's placement evaluation;
 5. Documentation of general consent and, if applicable, informed consent;
 6. If applicable, the name and contact information of the resident's representative and:
 - a. The document signed by the resident consenting for the resident's representative to act on the resident's behalf; or
 - b. If the resident's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 7. The name and contact information of ~~an individual to be contacted under R9-10-503(F)~~ the resident's representative, family member, or other individual designated by the resident;
 8. Documentation of the initial assessment required in R9-10-507(3) to determine acuity;
 9. The medical history and physical examination required in R9-10-516(A)(4);
 10. A copy of the resident's living will or other health care directive, if applicable;
 11. The name and telephone number of the resident's attending physician;
 12. Orders;
 13. Documentation of the resident's comprehensive assessment;
 14. Individual program plans, including nursing care plans or medical care plans, if applicable;
 15. Documentation of active treatment and other physical health services or behavioral care provided to the resident;
 16. Progress notes, including data needed to evaluate the effectiveness of the methods, schedule, and strategies being used to accomplish the goals in the resident's individual program plan;
 17. If applicable, documentation of restraint or seclusion;

18. If applicable, documentation of any actions other than restraint or seclusion taken to control or address the resident's behavior to prevent harm to the resident or another individual or to improve the resident's social interactions;
19. If applicable, documentation that evacuation from the ICF/IID would cause harm to the resident;
20. The disposition of the resident after discharge;
- ~~21. The discharge plan;~~
- ~~22. The discharge summary;~~
- ~~23-21.~~ Transfer documentation;
- ~~22.~~ The discharge plan and summary;
- ~~24-23.~~ If applicable:
 - a. A laboratory report,
 - b. A radiologic report,
 - c. A diagnostic report, and
 - d. A consultation report;
- ~~25-24.~~ Documentation of freedom from infectious tuberculosis required in ~~R9-10-507(10)~~ R9-10-507(9);
- ~~26-25.~~ Documentation of a medication administered to the resident that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. The type of vaccine, if applicable;
 - d. For a medication administered for pain on a PRN basis:
 - i. An evaluation of the resident's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - e. For a psychotropic medication administered on a PRN basis:
 - i. An evaluation of the resident's symptoms before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - f. The identification, signature, and professional designation of the individual administering the medication; and
 - g. Any adverse reaction a resident has to the medication; and
- ~~27-26.~~ If applicable, a copy of written notices, including follow-up instructions, provided to the resident or the resident's representative.

R9-10-514. Individual Program Plan

- A. An administrator shall ensure that:
 1. A comprehensive assessment of a resident:
 - a. Is conducted or coordinated by a qualified intellectual disabilities professional, in collaboration with an interdisciplinary team that includes:
 - i. The resident's attending physician or designee;
 - ii. A registered nurse;
 - iii. If the resident is receiving medications as part of active treatment, a pharmacist; and
 - iv. Personnel members qualified to provide each type of rehabilitation services identified in a placement evaluation or the initial assessment required in R9-10-507(3);
 - b. Is completed for the resident within 30 calendar days after the resident's admission to an ICF/IID;
 - c. Is updated:
 - i. No later than 12 months after the date of the resident's last comprehensive assessment, and
 - ii. When the resident experiences a significant change;
 - d. Includes the following information for the resident:
 - i. Identifying information;
 - ii. An evaluation of the resident's hearing, speech, and vision;
 - iii. An evaluation of the resident's ability to understand and recall information;
 - iv. An evaluation of the resident's mental status;
 - v. Whether the resident demonstrates inappropriate behavior;
 - vi. Preferences for customary routine and activities;
 - vii. An evaluation of the resident's ability to perform activities of daily living;
 - viii. Need for a mobility device;
 - ix. An evaluation of the resident's ability to control the resident's bladder and bowels;
 - x. Any diagnosis that impacts rehabilitation services or other physical health services or behavioral care that the resident may require;
 - xi. Any medical conditions that impact the resident's functional status, quality of life, or need for nursing services;
 - xii. An evaluation of the resident's ability to maintain adequate nutrition and hydration;
 - xiii. An evaluation of the resident's oral and dental status;
 - xiv. An evaluation of the condition of the resident's skin;
 - xv. Identification of any medication or treatment administered to the resident during a seven-day calendar period that includes the time the comprehensive assessment was conducted;
 - xvi. Identification of any treatment or medication ordered for the resident;
 - xvii. Identification of interventions that may support the resident towards independence;
 - xviii. Identification of any assistive devices needed by the resident;
 - xix. Identification of the active treatment needed by the resident, including active treatment not provided by the ICF/IID;
 - xx. Identification of measurable goals and behavioral objective for the active treatment, in priority order, with time limits for attainment;

- xxi. Identification of the methods, schedule, and strategies to accomplish the goals in subsection (A)(1)(d)(xviii), including the personnel member responsible;
- xxii. Evaluation procedures for determining if the methods and strategies in subsection (A)(1)(d)(xix) are working, including the type of data required and frequency of collection;
- xxiii. Whether any restraints have been used for the resident during a seven-day calendar period that includes the time the comprehensive assessment was conducted;
- xxiv. If the resident demonstrates inappropriate behavior, as reported according to subsection (A)(1)(d)(v), identification of the methods, schedule, and strategies for replacement of the inappropriate behavior with appropriate behavioral expressions, including the hierarchy for use;
- xxv. If restraint or seclusion is included in subsection ~~(A)(1)(d)(xxiv)~~ (A)(1)(d)(xxiii), the specific restraints or conditions of seclusion that may be used because of the resident’s inappropriate behavior;
- xxvi. A description of the resident or resident’s representative’s participation in the comprehensive assessment;
- xxvii. The name and title of the interdisciplinary team members who participated in the resident’s comprehensive assessment;
- xxviii. Potential for rehabilitation, including the resident’s strengths and specific developmental or behavioral health needs; and
- xxix. Potential for discharge;
- e. Is signed and dated by the qualified intellectual disabilities professional who conducts or coordinates the comprehensive assessment or review; and
- f. Is used to determine or update the resident’s acuity;
- 2. If ~~any of the conditions~~ condition in subsection (A)(1)(d)(v) ~~are~~ is answered in the affirmative during the comprehensive assessment or review, a behavioral health professional reviews a resident’s comprehensive assessment or review and individual program plan to ensure that the resident’s needs for behavioral care are being met;
- 3. A new comprehensive assessment is not required for a resident who is hospitalized and readmitted to an ICF/IID unless a physician, an individual designated by the physician, a qualified intellectual disabilities professional, or a registered nurse determines the resident has a significant change in condition; and
- 4. A resident’s comprehensive assessment is reviewed at least once every three months after the date of the current comprehensive assessment and if there is a significant change in the resident’s condition by:
 - a. A qualified intellectual disabilities professional; and
 - b. If the resident has a nursing care plan or medical care plan, a registered nurse.
- B. An administrator shall ensure that an individual program plan for a resident:
 - 1. Is developed, documented, and implemented for the resident within seven calendar days after completing the resident’s comprehensive assessment required in subsection (A)(1);
 - 2. Includes the acuity of the resident;
 - 3. Is reviewed at least annually by the interdisciplinary team required in subsection (A)(1)(a) and revised based on any change to the resident’s comprehensive assessment; and
 - 4. Ensures that a resident is provided rehabilitation services and other physical health services or behavioral care that:
 - a. Address any medical condition or behavioral care issue identified in the resident’s comprehensive assessment, and
 - b. Assist the resident in maintaining the resident’s highest practicable well-being according to the resident’s comprehensive assessment.

R9-10-515. Seclusion; Restraint

- A. No change
 - 1. No change
 - 2. No change
- B. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - i. No change
 - (1) No change
 - (2) No change
 - ii. No change
 - iii. No change
 - 3. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - vi. No change

- b. No change
- 4. No change
 - a. No change
 - b. No change
 - c. No change
 - i. No change
 - ii. No change
 - iii. No change
 - d. No change
- C. An administrator shall ensure that:
 1. Policies and procedures for providing restraint or seclusion are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Establish the process for resident assessment, including identification of a resident's medical conditions and criteria for the on-going monitoring of any identified medical condition;
 - b. Identify each type of restraint or seclusion used and include for each type of restraint or seclusion used:
 - i. The qualifications of a personnel member who can:
 - (1) Order the restraint or seclusion,
 - (2) Place a resident in the restraint or seclusion,
 - (3) Monitor a resident in the restraint or seclusion,
 - (4) Evaluate a resident's physical and psychological well-being after being placed in the restraint or seclusion and when released from the restraint or seclusion, or
 - (5) Renew the order for restraint or seclusion;
 - ii. On-going training requirements for a personnel member who has direct resident contact while the resident is in a restraint or seclusion; and
 - iii. Criteria for monitoring and assessing a resident including:
 - (1) Frequencies of monitoring and assessment based on a resident's medical condition and risks associated with the specific restraint or seclusion;
 - (2) For the renewal of an order for restraint or seclusion, whether an assessment is required before the order is renewed and, if an assessment is required, who may conduct the assessment;
 - (3) Assessment content, which may include, depending on a resident's condition, the resident's vital signs, respiration, circulation, hydration needs, elimination needs, level of distress and agitation, mental status, cognitive functioning, neurological functioning, and skin integrity;
 - (4) If a mechanical restraint is used, how often the mechanical restraint is loosened; and
 - (5) A process for meeting a resident's nutritional needs and elimination needs;
 - c. Establish the criteria and procedures for renewing an order for restraint or seclusion;
 - d. Establish procedures for internal review of the use of restraint or seclusion; and
 - e. Establish medical record and personnel record documentation requirements for restraint and seclusion, if applicable;
 2. An order for restraint or seclusion is:
 - a. Obtained from a physician or registered nurse practitioner, and
 - b. Not written as a standing order or on an as-needed basis;
 3. Restraint or seclusion is:
 - a. Not used as a means of coercion, discipline, convenience, or retaliation;
 - b. Only used when all of the following conditions are met:
 - i. Except as provided in subsection (C)(4), after obtaining an order for the restraint or seclusion;
 - ii. For the management of a resident's aggressive, violent, or self-destructive behavior;
 - iii. When less restrictive interventions have been determined to be ineffective; and
 - iv. To ensure the immediate physical safety of the resident, to prevent imminent harm to the resident or another individual, or to stop physical harm to another individual; and
 - c. Discontinued at the earliest possible time;
 4. If as a result of a resident's aggressive, violent, or self-destructive behavior, harm to the resident or another individual is imminent or the resident or another individual is being physically harmed, a personnel member:
 - a. May initiate an emergency application of restraint or seclusion for the resident before obtaining an order for the restraint or seclusion, and
 - b. Obtains an order for the restraint or seclusion of the resident during the emergency application of the restraint or seclusion;
 5. An order for restraint or seclusion includes:
 - a. The name of the physician or registered nurse practitioner ordering the restraint or seclusion;
 - b. The date and time that the restraint or seclusion was ordered;
 - c. The specific restraint or seclusion ordered;
 - d. If a drug is ordered as a chemical restraint, the drug's name, strength, dosage, and route of administration;
 - e. The specific criteria for release from restraint or seclusion without an additional order; and
 - f. The maximum duration authorized for the restraint or seclusion;
 6. An order for restraint or seclusion is limited to the duration of the emergency situation and does not exceed three continuous hours;
 7. If an order for restraint or seclusion of a resident is not provided by the resident's attending physician, the resident's attending physician is notified as soon as possible;

8. A medical practitioner or personnel member does not participate in restraint or seclusion, assess or monitor a resident during restraint or seclusion, or evaluate a resident after restraint or seclusion, and a physician or registered nurse practitioner does not order restraint or seclusion, until the medical practitioner or personnel member, completes education and training that:
 - a. Includes:
 - i. Techniques to identify medical practitioner, personnel member, and resident behaviors, events, and environmental factors that may trigger circumstances that require restraint or seclusion;
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods;
 - iii. Techniques for identifying the least restrictive intervention based on an assessment of the resident's medical or behavioral health condition;
 - iv. The safe use of restraint and the safe use of seclusion, including training in how to recognize and respond to signs of physical and psychological distress in a resident who is restrained or secluded;
 - v. Clinical identification of specific behavioral changes that indicate that the restraint or seclusion is no longer necessary;
 - vi. Monitoring and assessing a resident while the resident is in restraint or seclusion according to policies and procedures; and
 - vii. Except for the medical practitioner, training exercises in which the personnel member successfully demonstrates the techniques that the medical practitioner or personnel member has learned for managing emergency situations; and
 - b. Is provided by individuals qualified according to policies and procedures;
9. When a resident is placed in restraint or seclusion:
 - a. The restraint or seclusion is conducted according to policies and procedures;
 - b. The restraint or seclusion is proportionate and appropriate to the severity of the resident's behavior and the resident's:
 - i. Chronological and developmental age;
 - ii. Size;
 - iii. Gender;
 - iv. Physical condition;
 - v. Medical condition;
 - vi. Psychiatric condition; and
 - vii. Personal history, including any history of physical or sexual abuse;
 - c. The physician or registered nurse practitioner who ordered the restraint or seclusion is available for consultation throughout the duration of the restraint or seclusion;
 - d. The resident is monitored and assessed according to policies and procedures;
 - e. A physician or registered nurse assesses the resident within one hour after the resident is placed in the restraint or seclusion and determines:
 - i. The resident's current behavior,
 - ii. The resident's reaction to the restraint or seclusion used,
 - iii. The resident's medical and behavioral condition, and
 - iv. Whether to continue or terminate the restraint or seclusion;
 - f. The resident is given the opportunity:
 - i. To eat during mealtime, and
 - ii. To use the toilet; and
 - g. The restraint or seclusion is discontinued at the earliest possible time, regardless of the length of time identified in the order;
10. A medical practitioner or personnel member documents the following information in a resident's medical record before the end of the shift in which the resident is placed in restraint or seclusion or, if the resident's restraint or seclusion does not end during the shift in which it began, during the shift in which the resident's restraint or seclusion ends:
 - a. The emergency situation that required the resident to be restrained or put in seclusion,
 - b. The times the resident's restraint or seclusion actually began and ended,
 - c. The monitoring and time of the assessment required in subsection ~~(C)(9)(d)~~ (C)(9)(e),
 - ~~d. The time of the assessment required in subsection (C)(9)(e),~~
 - ~~e-d.~~ The names of the medical practitioners and personnel members with direct resident contact while the resident was in the restraint or seclusion,
 - ~~f-e.~~ The times the resident was given the opportunity to eat or use the toilet according to subsection (C)(9)(f), and
 - ~~g-f.~~ The resident evaluation required in subsection (C)(12);
11. If an emergency situation continues beyond the time limit of an order for restraint or seclusion, the order is renewed according to policies and procedures that include:
 - a. The specific criteria for release from restraint or seclusion without an additional order, and
 - b. The maximum duration authorized for the restraint or seclusion; and
12. A resident is evaluated after restraint or seclusion is no longer being used for the resident.

R9-10-516. Physical Health Services

- A. No change
 1. No change
 2. No change
 3. No change
 4. No change
 - a. No change
 - b. No change

5. No change
 - a. No change
 - b. No change
6. No change
 - a. No change
 - b. No change
 - c. No change
- B.** No change
 1. No change
 2. No change
 - a. No change
 - b. No change
 3. No change
- C.** A director of nursing shall ensure that:
 1. A method is established and documented that identifies the types and numbers of nursing personnel that are necessary to provide nursing services to residents based on:
 - a. The acuity of the residents, and
 - b. The ICF/IID's scope of services;
 2. Sufficient nursing personnel, as determined by the method in subsection (C)(1), are on the ICF/IID's premises to meet the needs of a resident for nursing services;
 3. A registered nurse participates in the development, review, and updating of a resident's nursing care plan or medical care plan;
 4. Personnel members providing direct care to a resident with a nursing care plan or medical care plan receive direction from a nurse;
 5. At least once every three months, a nurse:
 - a. Assesses the health of a resident without a nursing care plan or medical care plan;
 - b. Documents the results in the resident's medical record; and
 - c. If the assessment indicates the need for physical health services or behavioral care, ~~initiates~~ initiate action, according to policies and procedures, to address the resident's needs;
 6. Nursing personnel provide education and training to:
 - a. Residents on hygiene and other behaviors that promote health; and
 - b. Personnel members on:
 - i. Detecting signs of illness or injury or significant changes in condition,
 - ii. First aid, and
 - iii. Basic skills for caring for residents;
 7. ~~As soon as possible but not more than 24 hours after one of the following events occur, a nurse notifies a resident's attending physician and, if applicable, the resident's representative, if the resident:~~ A nurse notifies a resident's attending physician and, if applicable, the resident's representative immediately or within 24 hours after one of the following events occur:
 - a. Is injured,
 - b. Is involved in an incident that requires medical services, or
 - c. Has a significant change in condition; and
 8. Only a medication required by an order is administered to a resident.
- D.** No change
 1. No change
 - a. No change
 - b. No change
 2. No change
 3. No change
 4. No change
 - a. No change
 - b. No change
 5. No change
 6. No change
 7. No change
 8. No change
 - a. No change
 - b. No change
 - c. No change
- E.** No change
 1. No change
 2. No change
 - a. No change
 - b. No change

R9-10-518. Clinical Laboratory Services

If clinical laboratory services are authorized to be provided on an ICF/IID's premises, an administrator shall ensure that:

1. Clinical laboratory services and pathology services are provided through a laboratory that holds a certificate of accreditation, certificate of compliance, or certificate of waiver issued by the United States Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;
2. A copy of the certificate of accreditation, certificate of compliance, or certificate of waiver in subsection (1) is provided to the Department for review upon the Department's request;
3. The ICF/IID:
 - a. Is able to provide the clinical laboratory services delineated in the ICF/IID's scope of services when needed by the residents,
 - b. Obtains specimens for the clinical laboratory services delineated in the ICF/IID's scope of services without transporting the residents from the ICF/IID's premises, and
 - c. Has the examination of the specimens performed by a clinical laboratory;
4. Clinical laboratory and pathology test results are:
 - a. Available to the ordering physician within 24 hours after the test:
 - i. ~~Within 24 hours after the test is~~ Is complete with results if the test is performed at a laboratory on the ICF/IID's premises, or
 - ii. ~~Within 24 hours after the test result~~ Result is received if the test is performed at a laboratory outside of the ICF/IID's premises; and
 - b. Documented in a resident's medical record;
5. If a test result is obtained that indicates a resident may have an emergency medical condition, as established in policies and procedures, personnel notify:
 - a. The ordering physician,
 - b. A registered nurse in the resident's assigned unit,
 - c. The ICF/IID's administrator, or
 - d. The director of nursing;
6. If a clinical laboratory report is completed on a resident, a copy of the report is included in the resident's medical record;
7. If the ICF/IID provides blood or blood products, policies and procedures are established, documented, and implemented for:
 - a. Procuring, storing, transfusing, and disposing of blood or blood products;
 - b. Blood typing, antibody detection, and blood compatibility testing; and
 - c. Investigating transfusion adverse reactions that specify a process for review through the quality management program; and
8. Expired laboratory supplies are discarded according to policies and procedures.

R9-10-520. Medication Services

- A. No change
 1. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - c. No change
 - d. No change
 - e. No change
 2. No change
 - a. No change
 - b. No change
- B. No change
 1. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - d. No change
 2. No change
 3. No change
 - a. No change
 - b. No change
 4. No change
 - a. No change
 - b. No change
- C. No change
 1. No change
 2. No change

- a. No change
 - b. No change
 - c. No change
 - d. No change
 - i. No change
 - ii. No change
 - iii. No change
 - e. No change
 - 3. No change
 - 4. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - 5. No change
 - 6. No change
 - a. No change
 - b. No change
 - D.** An administrator shall ensure that:
 - 1. A current drug reference guide is available for use by personnel members; and
 - 2. ~~If applicable, pharmaceutical services are provided; under the direction of a pharmacist and comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23.~~
 - ~~a. The pharmaceutical services are provided under the direction of a pharmacist;~~
 - ~~b. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and~~
 - ~~c. A copy of the pharmacy license is provided to the Department upon request.~~
 - 3. A copy of the pharmacy license is provided to the Department upon request.
 - E.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - F.** No change
- R9-10-522. Food Services**
- A.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - 4. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 5. No change
 - B.** A registered dietitian or director of food services shall ensure that:
 - 1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a resident such as cut, chopped, ground, pureed, or thickened;
 - 2. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served on each day,
 - c. Is conspicuously posted at least one day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
 - 3. Meals and snacks for each day are planned and served using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2015.asp> ~~the most recent dietary guidelines according to the U.S. Department of Health and Human Services and U.S. Department of Agriculture;~~
 - 4. A resident is provided:
 - a. A diet that meets the resident's nutritional needs as specified in the resident's comprehensive assessment and individual program plan;
 - b. Food served in sufficient quantities to meet the resident's nutritional needs and at an appropriate temperature;

- c. Three meals a day with not more than 14 hours between the evening meal and breakfast, except as provided in subsection (B)(4)(e);
- d. The option to have a daily evening snack identified in subsection (B)(4)(e)(ii) or other snack; and
- e. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. A resident group agrees; and
 - ii. The resident is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
- 5. A resident is provided with food substitutions of similar nutritional value if:
 - a. The resident refuses to eat the food served, or
 - b. The resident requests a substitution;
- 6. Recommendations and preferences are requested from a resident or the resident’s representative for meal planning;
- 7. If food is used as a part of a program to manage a resident’s inappropriate behavior:
 - a. A special diet is included as part of the resident’s individual program plan, and
 - b. The special diet is reviewed and evaluated by a physician and a dietitian to ensure the special diet meets the resident’s nutritional needs;
- 8. Meals are served to residents at tables in a dining area and in a manner that allows the resident to eat from an upright position, unless otherwise specified in the resident’s individual program plan or by an attending physician;
- 9. A resident requiring assistance to eat is provided with assistance that recognizes the resident’s nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils;
- 10. Personnel members supervise meals in dining areas to:
 - a. Direct a resident’s self-help dining procedures,
 - b. Ensure a resident consumes enough food to meet the resident’s nutritional needs, and
 - c. Ensure that a resident eats in a manner consistent with the resident’s developmental level;
- 11. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair; and
- 12. Water is available and accessible to residents.

R9-10-525. Physical Plant Standards

- A. An administrator shall ensure that, if an ICF/IID has:
 - 1. More than 16 residents, the ICF/IID complies with:
 - a. The applicable physical plant health and safety codes and standards, incorporated by reference in R9-10-104.01, that were in effect on the earlier of:
 - i. The date the ICF/IID was originally certified as an ICF/IID by the federal Centers for Medicare and Medicaid Services, or
 - ii. The date the ICF/IID submitted the application packet including the notarized attestation of architectural plans ~~and specifications to the Department for approval~~ according to R9-10-104; and
 - b. The requirements for Existing Health Care Occupancies in National Fire Protection Association 101, Life Safety Code, incorporated by reference in R9-10-104.01; and
 - 2. Sixteen or fewer residents, the ICF/IID complies with the requirements for Existing Health Care Occupancies in National Fire Protection Association 101, Life Safety Code, incorporated by reference in R9-10-104.01.
- B. No change
 - 1. No change
 - a. No change
 - b. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - vi. No change
 - vii. No change
 - 5. No change
 - a. No change
 - b. No change
 - c. No change
 - 6. No change
 - 7. No change
- C. No change
 - 1. No change
 - 2. No change
 - 3. No change

- a. No change
- b. No change
- c. No change
- d. No change
- e. No change
- f. No change
- g. No change
- 4. No change
- 5. No change
- 6. No change
- 7. No change
 - 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. No change
 - j. No change
 - k. No change
 - l. No change
- D.** If a swimming pool is located on the premises, an administrator shall ensure that:
 - 1. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater ~~that~~ than four inches across;
 - c. Has no horizontal openings, except as described in subsection (D)(1)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use; and
 - 2. A life preserver or shepherd's crook is available and accessible in the pool area.
- E.** No change

NOTICES OF FINAL EXPEDITED RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Final Expedited Rulemakings. An agency prepares these notices under A.R.S. § 41-1013(9).

Expedited rulemaking is an accelerated rulemaking process that does not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated. Other requirements to conduct expedited rulemaking are listed under A.R.S. § 41-1027.

Under the law an agency is required to file a Notice of Proposed Expedited Rulemaking for review. The notices in

this section include *Register* publication dates where the Notices of Proposed Expedited Rulemaking were published.

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

Questions about the interpretation of expedited rules should be addressed to the agency promulgating the rules.

Refer to item 4 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXPEDITED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES**

[R24-311]

PREAMBLE

1. Permission to proceed with this final expedited rulemaking was granted under A.R.S. § 41-1039 by the Governor on:

October 15, 2024

2. Article, Part, or Section Affected (as applicable)

R9-25-908

Rulemaking Action

Amend

3. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. §§ 36-132(A)(1), 36-136(G)

Implementing statute: A.R.S. §§ 36-2201, 36-2202, 36-2204.02, 36-2211, 36-2224, 36-2232, 36-2233, 36-2237, 36-2241

4. The effective date of the rule:

December 31, 2024 (*immediately upon filing with the Office of the Secretary of State*)

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

Notice of Rulemaking Docket Opening: 30 A.A.R. 436, March 8, 2024

Notice of Proposed Expedited Rulemaking: 30 A.A.R. 2780, September 6, 2024

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

Name: Rachel Zenuk Garcia, Bureau Chief

Address: Arizona Department of Health Services
Bureau of Emergency Medical Services and Trauma System
150 N. 18th Ave., Suite 540
Phoenix, AZ 85007-3248

Telephone: (602) 364-3150

Fax: (602) 364-3568

Email: Rachel.Garcia@azdhs.gov

or

Name: Stacie Gravito, Office Chief

Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules
150 N. 18th Ave., Suite 200
Phoenix, AZ 85007-3232

Telephone: (602) 542-1020

Fax: (602) 364-1150

Email: Stacie.Gravito@azdhs.gov

7. 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.) §§ 36-2202(A)(3) and (4) and 36-2209(A)(2) require the Arizona Department of Health Services (Department) to adopt standards and criteria pertaining to the quality of emergency care, rules necessary for the operation of emergency medical services, and rules for carrying out the purposes of A.R.S. Title 36, Chapter 21.1. A.R.S. Title 36, Chapter

21.1, Article 2, specifies requirements related to the regulation of ground ambulance services. The Department has adopted rules to implement these statutes in 9 A.A.C. 25, with the rules in Article 9 establishing requirements for ground ambulance certificates of necessity. As part of completing a recent rulemaking that included the rules in 9 A.A.C. 25, Article 9, the Department identified several areas that might require further discussion and revision and included a delayed implementation date for some requirements to allow for additional discussion with stakeholders. The Department initiated this rulemaking to allow for further discussion and possible changes to be made to address stakeholder concerns. After meeting with stakeholders, the Department has made changes to reduce the regulatory burden while achieving the same objective. The new amendments are consistent with the purpose for A.R.S. § 41-1027 in that this rulemaking does not increase the cost of regulatory compliance, does not increase a fee, or reduce a procedural right of regulated persons, and reduces steps, procedures, or processes and amends rules that are outdated and unnecessary, while protecting the health and safety of patients and the general public.

- 8. 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.
- 9. 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.
- 10. A statement that the agency is exempt from the requirements under A.R.S. § 41-1055(G) to obtain and file a preliminary summary of the economic, small business, and consumer impact under A.R.S. § 41-1055(D)(2):**
Under A.R.S. § 41-1055(D)(2), the Department is not required to provide an economic, small business, and consumer impact statement.
- 11. A description of any change between the proposed expedited rulemaking, to include a supplemental proposed notice, and the final rulemaking:**
No changes were made between the proposed expedited rulemaking and the final expedited rulemaking.
- 12. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**
No comments were received.
- 13. 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:**
Permits are not applicable to the content of this rulemaking. However, with reference to 9 A.A.C. 25, Article 9, a general permit is not applicable under A.R.S. § 41-1037(A)(2). The Department issues certificates of necessity under A.R.S. §§ 36-2202(A), 36-2232, 36-2233, 36-2236, and 36-2240.
- 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:**
No federal laws are applicable to this rulemaking.
- 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 business competitiveness analysis was received by the Department.
- 14. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**
Not applicable.
- 15. The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES EMERGENCY MEDICAL SERVICES

ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY

Section

R9-25-908. Operations (Authorized by A.R.S. §§ 36-2204.02, 36-2211, 36-2224, 36-2232, 36-2233, 36-2237, 36-2241)

ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY

R9-25-908. Operations (Authorized by A.R.S. §§ 36-2204.02, 36-2211, 36-2224, 36-2232, 36-2233, 36-2237, 36-2241)

A. Insurance: A certificate holder shall:

1. Either:

a. Maintain with an insurance company authorized to transact business in this state:

- i. A minimum single occurrence automobile liability insurance coverage of \$1,000,000 for ground ambulance vehicles;
- ii. A minimum single occurrence professional liability insurance coverage for the ground ambulance service of \$1,000,000; and

- iii. If the certificate holder provides ALS services or critical care services, a minimum single occurrence professional liability insurance coverage for personnel of the ground ambulance service providing ALS services or critical care services of \$1,000,000; or
 - b. Be self-insured for the amounts in subsection (A)(1)(a); and
 - 2. Submit to the Department within seven days after renewal of the insurance coverage in subsection (A)(1)(a) or a change in how the insurance coverage in subsection (A)(1)(a) or (b) is obtained:
 - a. A copy of the certificate of insurance in subsection (A)(1)(a); or
 - b. Documentation of self-insurance according to subsection (A)(1)(b).
- B. Record Retention:** According to A.R.S. § 36-2241, a certificate holder shall maintain the following records for the Department's review and inspection:
 - 1. The certificate holder's financial statements;
 - 2. All federal and state income tax records;
 - 3. All employee-related expense reports and payroll records;
 - 4. All bank statements and documents used to reconcile accounts;
 - 5. All documents establishing the depreciation of assets, such as schedules or accounting records on ground ambulance vehicles, equipment, office furniture, and other plant and equipment assets subject to depreciation;
 - 6. All prehospital history incident reports, as specified in subsection (J)(1);
 - 7. All patient billing and reimbursement records;
 - 8. All dispatch records, as specified in subsection (J)(2);
 - 9. All policies and procedures required by this Article or Article 2, 10, or 11 of this Chapter;
 - 10. All plans required by this Article or Article 2, 10, or 11 of this Chapter;
 - 11. Documentation of the analysis of response time performance according to subsection (G)(2);
 - 12. Documentation of the analysis of performance of interfacility transports of patients with no time-critical condition, including patients with a time-sensitive condition, according to subsection (H)(1);
 - 13. Documentation of notification to the Department of instances of noncompliance according to subsection (K)(1)(c);
 - 14. All back-up agreements, contracts, grants, and financial assistance records related to ground ambulance vehicles, ambulance response, and transport;
 - 15. All written complaints about the ground ambulance service; and
 - 16. Information about destroyed or otherwise irretrievable records in a file including:
 - a. A list of each record destroyed or otherwise irretrievable,
 - b. A description of the circumstances under which each record became destroyed or otherwise irretrievable, and
 - c. The date each record was destroyed or became otherwise irretrievable.
- C. Staffing:** A certificate holder shall ensure that:
 - 1. If a ground ambulance vehicle is marked with a level of service, the ground ambulance vehicle is staffed to provide the level of service identified;
 - 2. An administrative medical director for the ground ambulance service complies with requirements in R9-25-201(F) and R9-25-502(B);
 - 3. Policies and procedures are established, implemented, and maintained that cover:
 - a. Job descriptions, duties, and qualifications, including required skills and knowledge for EMCTs and other employees; and
 - b. Orientation and in-service education for EMCTs and other employees;
 - 4. An EMCT employed by the ground ambulance service:
 - a. Is assigned patient care duties consistent with the EMCT's scope of practice and the administrative medical director's evaluation of the EMCT's skills and capabilities;
 - b. Complies with the protocols required in R9-25-201(E)(2);
 - c. Receives training on the policies and procedures required in R9-25-201(E)(3)(b); and
 - d. Receives ongoing education, training, or remediation consistent with the policies and procedures required in R9-25-201(E)(3)(b)(x); and
 - 5. Staffing of ground ambulance vehicles:
 - a. For the provision of BLS or ALS, is consistent with A.R.S. § 36-2239; and
 - b. ~~Effective January 1, 2025, for~~ For critical care services, includes at least one:
 - i. Paramedic with an additional endorsement, indicating additional training and authorization from the Department to provide critical care services; or
 - ii. Registered nurse.
- D. Communications and Advertising:** A certificate holder shall ensure that the ground ambulance service:
 - 1. Makes a good faith effort to communicate information:
 - a. About its hours of operation to the general public through print media, broadcast media, the Internet, or other means; and
 - b. About resource availability and deployment to other EMS providers in overlapping and surrounding service areas;
 - 2. Does not advertise that the ground ambulance service:
 - a. Provides a type of service or level of service other than what is granted in the certificate of necessity,
 - b. Operates in the service area other than what is granted in the certificate of necessity, or
 - c. In a manner that circumvents the use of 9-1-1 or another similarly designated emergency telephone number;
 - 3. Establishes, implements, and maintains the protocol for providing information to emergency receiving facility staff concurrent with the transfer of care, required in R9-25-201(E)(2)(d)(i), which includes:
 - a. The date and time the dispatch was received by the ground ambulance service;
 - b. The unique number used by the ground ambulance service to identify the run;
 - c. The name of the ground ambulance service;

- d. The number or other identifier of the ground ambulance vehicle used for the run;
 - e. The following information about the patient:
 - i. The patient's name;
 - ii. The patient's date of birth or age, as available;
 - iii. The principal reason for requesting services for the patient;
 - iv. The patient's medical history, including any chronic medical illnesses, known allergies to medications, and medications currently being taken by the patient;
 - v. The patient's level of consciousness at initial contact and when reassessed;
 - vi. The patient's pulse rate, respiratory rate, oxygen saturation, and systolic blood pressure at initial contact and when reassessed;
 - vii. The results of an electrocardiograph, if available;
 - viii. The patient's glucose level at initial contact and when reassessed, if applicable;
 - ix. The patient's level of responsiveness score, as applicable, at initial contact and when reassessed;
 - x. The results of the patient's neurological assessment, if applicable; and
 - xi. The patient's pain level at initial contact and when reassessed; and
 - f. Any procedures or other treatment provided to the patient at the scene or during transport, including any agents administered to the patient; and
4. Establishes, implements, and maintains a protocol for providing information to another certificate holder, ambulance service, EMS provider, or health care institution concurrent with the transfer of care, which includes the information in subsections (D)(3)(c), (d), (e), and (f).
- E. Dispatch and Scheduling:** A certificate holder shall ensure that:
- 1. A contract or other agreement, including internal policies and procedures, to provide dispatch exists and includes:
 - a. Information about other certificate holders with which the certificate holder has a back-up agreement;
 - b. The process and parameters under which a ground ambulance vehicle of another certificate holder will be dispatched to respond to a call to which a ground ambulance vehicle of the certificate holder cannot respond;
 - c. Except as specified in subsection (E)(2), for an area within the certificate holder's service area that overlaps with another certificate holder's service area, that the nearest ground ambulance vehicle to the patient's location, under either certificate holder that can provide the necessary level of service, will be directed to respond to a call made through 9-1-1 or a similar dispatch system; and
 - d. If the entity providing dispatch is external to the ground ambulance service, a requirement that the certificate holder receive a copy of each dispatch made under the contract or other agreement;
 - 2. If a certificate holder has a ground ambulance service contract under R9-25-1104 with a political subdivision, the ground ambulance service contract contains requirements that specify a method for dispatch, which may differ from requirements in subsection (E)(1)(c); and
 - 3. For an interfacility transport of a patient with no time-critical condition:
 - a. Unless already specified in a written agreement between the certificate holder and the person requesting the interfacility transport, the entity receiving the request for the interfacility transport provides an estimated time of arrival to the person requesting the interfacility transport at the time that the interfacility transport is requested;
 - b. If the estimated time of arrival provided according to subsection (E)(3)(a) changes to a later time, the ground ambulance service, either directly or indirectly, does one of the following:
 - i. Contacts another ground ambulance service to respond to the dispatch, based on the ground ambulance service's back-up plan and back-up agreements;
 - ii. Provides to the contact at the requesting health care institution the name and telephone number of another ground ambulance service with which the ground ambulance service has a back-up agreement; or
 - iii. Provides an amended estimated time of arrival to the person requesting transport that takes into consideration:
 - (1) The patient's condition and needs, and
 - (2) Health and safety;
 - c. ~~Effective January 1, 2025, unless~~ Unless otherwise specified on the certificate holder's certificate of necessity, the actual time of arrival of a ground ambulance vehicle at a health care institution for an interfacility transport of a patient who does not have a time-critical condition is within 60 minutes of the estimated time of arrival in subsection (E)(3)(a) or amended estimated time of arrival in subsection (E)(3)(b)(iii) for at least 90% of the interfacility transports; and
 - d. If the interfacility transport does not meet the standards in subsection (E)(3)(c), factors that may have contributed to not meeting the standards are considered through the quality improvement process in subsection (K)(2)(b).
- F. Transport:** A certificate holder:
- 1. Shall only provide ambulance response or transport within the service area identified in the certificate holder's certificate of necessity except:
 - a. When authorized by a service area's dispatch, before the service area's ground ambulance vehicle arrives at the scene;
 - b. According to a back-up agreement; or
 - c. If the area is not included in the service area of another certificate holder;
 - 2. Except as specified in subsection (F)(3), shall transport a patient in the certificate holder's service area who requests transport; and
 - 3. May deny transport to a patient in the certificate holder's service area:
 - a. As limited by A.R.S. § 36-2224;
 - b. If the patient is in a health care institution and the patient's medical condition requires a level of care or monitoring during transport that exceeds the scope of practice of the ambulance attendants' certification;

- c. If the transport may result in an immediate threat to the ambulance attendant's safety, as determined by the ambulance attendant, the certificate holder, the administrative medical director, or a physician providing on-line medical direction and does not affect the ground ambulance service's hours of operation;
 - d. If the patient is 18 years or age or older, or meets the requirements in A.R.S. § 12-2451, 44-131, or 44-132, and refuses to be transported; or
 - e. If the patient is in a health care institution and does not meet the federal requirements for medically necessary ground vehicle ambulance transport as identified in 42 CFR 410.40.
- G. Response Time Performance:** A certificate holder shall ensure that:
- 1. Response times resulting from a 9-1-1 or similar system dispatch or, if applicable, a request for the interfacility transport of a patient with a time-critical condition comply with requirements of the certificate holder's certificate of necessity;
 - 2. Response time performance, based on the information in subsection (J)(2), is assessed at least every six months for compliance with requirements of the certificate holder's certificate of necessity;
 - 3. The following are reported to the Department annually, in a Department-provided format, concurrent with the submission of the information required in R9-25-909:
 - a. Response time data that complies with requirements in A.R.S. § 36-2232(A)(3), and
 - b. The results of the response time performance assessments in subsection (G)(2); and
 - 4. If response time performance does not comply with requirements of the certificate holder's certificate of necessity, either:
 - a. A corrective action plan, developed according to R9-25-910(E)(2)(a) through (d), is submitted to the Department with the information required in subsection (G)(3); or
 - b. The certificate holder submits to the Department with the information required in subsection (G)(3) documentation demonstrating that noncompliance was due to:
 - i. A situation specified in A.R.S. § 36-2232(G), or
 - ii. An external factor beyond the control of the certificate holder.
- H. Performance of Interfacility Transports of Patients with No Time-Critical Condition:** ~~Effective January 1, 2025, a~~ A certificate holder shall ensure that:
- 1. The performance of interfacility transports of patients with no time-critical condition, ~~including patients with a time sensitive condition:~~
 - a. Is based on the information in subsection (J)(2);
 - b. Is assessed at least every six months;
 - c. Includes the analysis of:
 - i. The number of calls received;
 - ii. The time a call was received;
 - iii. The initial estimated time of arrival, according to subsection (E)(3)(a); and
 - iv. The time of arrival at the patient's location; and
 - d. May include:
 - ~~i.~~ Any other information about cancelled calls, amended estimated times of arrival, or delays that may have factored into performance; and
 - ~~ii.~~ Includes a description of any actions taken by the certificate holder to improve performance;
 - 2. The results of the performance assessments in subsection (H)(1) are reported to the Department annually in a Department-provided format, concurrent with the submission of the information required in R9-25-909; and
 - 3. If the performance of interfacility transports of patients with no time-critical condition does not comply with subsection (E)(3)(c) or requirements of the certificate holder's certificate of necessity, as applicable, either:
 - a. A corrective action plan, developed according to R9-25-910(E)(2)(a) through (d), is submitted to the Department with the information required in subsection (H)(2); or
 - b. The certificate holder submits to the Department with the information required in subsection (H)(2) documentation demonstrating that noncompliance was due to an external factor beyond the control of the certificate holder.
- I.** The Department may require that a certificate holder contract for third-party monitoring of response time performance as part of a:
- 1. Political subdivision contract, unless both parties to the contract waive the requirement; or
 - 2. Corrective action plan.
- J. Records:** A certificate holder shall ensure that:
- 1. A prehospital incident history report, in a Department-provided format, is created for each patient that includes the following information, as available:
 - a. The name and identification number of the ground ambulance service;
 - b. Information about the software for the storage and submission of the prehospital incident history report;
 - c. The unique number assigned to the run;
 - d. The unique number assigned to the patient;
 - e. Information about the response to the dispatch, including:
 - i. The level of service requested;
 - ii. Information obtained by the person providing dispatch about the request;
 - iii. Information about the ground ambulance vehicle assigned to the dispatch;
 - iv. Information about the EMCTs responding to the dispatch;
 - v. The priority assigned to the dispatch; and
 - vi. Response delays, as applicable;
 - f. The date and time that:
 - i. The call requesting service was received through the 9-1-1 or similar dispatch system,
 - ii. The request was received by the person providing dispatch,

- iii. The ground ambulance service received the dispatch,
 - iv. The ground ambulance vehicle left for the patient's location,
 - v. The ground ambulance vehicle arrived at the patient's location,
 - vi. The EMCTs in the ground ambulance vehicle arrived at the patient's side,
 - vii. Transfer of care for the patient occurred at a location other than the destination,
 - viii. The ground ambulance vehicle departed the patient's location,
 - ix. The ground ambulance vehicle arrived at the destination,
 - x. Transfer of care for the patient occurred at the destination, and
 - xi. The ground ambulance vehicle was available to take another call;
 - g. Information about the patient, including:
 - i. The patient's first and last name;
 - ii. The address of the patient's residence;
 - iii. The county of the patient's residence;
 - iv. The country of the patient's residence;
 - v. The patient's gender, race, ethnicity, and age;
 - vi. The patient's estimated weight;
 - vii. The patient's date of birth; and
 - viii. If the patient has an alternate residence, the address of the alternate residence;
 - h. The primary method of payment for services and anticipated level of payment;
 - i. Information about the scene, including:
 - i. Specific information about the location of the scene;
 - ii. Whether the ground ambulance vehicle was first on the scene;
 - iii. The number of patients at the scene;
 - iv. Whether the scene was the location of a mass casualty incident; and
 - v. If the scene was the location of a mass casualty incident, triage information;
 - j. Information about the reason for requesting service for the patient, including:
 - i. The date and time of onset of symptoms and when the patient was last well;
 - ii. Information about the principal reason the patient needs services;
 - iii. The patient's symptoms;
 - iv. The results of the EMCT's initial assessment of the patient;
 - v. If the patient was injured, information about the injury and the cause of the injury;
 - vi. If the patient experienced a cardiac arrest, information about the etiology of the cardiac arrest and subsequent treatment provided; and
 - vii. For an interfacility transport, the reason for the transport;
 - k. Information about any specific barriers to providing care to the patient;
 - l. Information about the patient's medical history, including:
 - i. Known allergies to medications,
 - ii. Surgical history,
 - iii. Current medications, and
 - iv. Alcohol or drug use;
 - m. Information about the patient's current medical condition, including the information in subsections (D)(2)(e)(v) through (xi) and the time and method of assessment;
 - n. Information about agents administered to the patient, including the dose and route of administration, time of administration, and the patient's response to the agent;
 - o. If not specifically included under subsection (J)(1)(I), (I)(iv), (m), or (n), the information required in A.A.C. R9-4-602(A);
 - p. Information about any procedures performed on the patient and the patient's response to the procedure;
 - q. Whether the patient was transported and, if so, information about the transport;
 - r. Information about the destination of the transport, including the reason for choosing the destination;
 - s. Whether transfer of care for the patient to another EMS provider or ambulance service occurred and, if so, identification of the EMS provider or ambulance service;
 - t. Unless transfer of care for the patient to another EMS provider or ambulance service occurred, information about:
 - i. Whether the destination facility was notified that the patient being transported has a time-critical condition and the time of notification,
 - ii. The disposition of the patient at the destination, and
 - iii. The disposition of the run;
 - u. Any other narrative information about the patient, care received by the patient, or transport; and
 - v. The name and certification level of the EMCT providing the information; and
2. Dispatch records for each call or request for service, including all cancelled runs, contain the following information, in a Department-provided format:
- a. The name of the ground ambulance service;
 - b. The date;
 - c. Level of service;
 - d. Type of service;
 - e. Staffing of the run;
 - f. Time of receipt of the call;
 - g. Time of the dispatch;

- ~~h.~~ The estimated time of arrival, as provided according to subsection (E)(3)(a) if applicable;
 - ~~i-h.~~ Departure time to the patient's location;
 - ~~j-i.~~ Address of the patient's location;
 - ~~k-j.~~ Time of arrival at the patient's location;
 - ~~l-k.~~ Departure time to the destination health care institution;
 - ~~m-l.~~ Name and address of the destination health care institution;
 - ~~n-m.~~ Time of arrival at the destination health care institution;
 - ~~o-n.~~ Any type of delay, if applicable;
 - ~~p-o.~~ The unique reference number used by the ground ambulance service to identify the patient, dispatch, or run;
 - ~~q-p.~~ The number assigned to the ground ambulance vehicle by the certificate holder;
 - ~~r-q.~~ The priority assigned by a certificate holder to the response;
 - ~~s-r.~~ The scene locality; ~~and~~
 - ~~t-s.~~ Whether the dispatch is a scheduled transport; and
 - ~~t.~~ The estimated time of arrival, as provided according to subsection (E)(3)(a), if applicable.
- K.** Assuring Consistent, Compliant Performance: A certificate holder shall:
1. Adopt, implement, and maintain policies and procedures for:
 - a. Complaint resolution;
 - b. Assessing the ground ambulance service's compliance with requirements in this Article, Articles 2, 10, or 11 of this Chapter, or A.R.S. Title 36, Chapter 21.1, including the review of:
 - i. The information provided to an emergency receiving facility for compliance with the protocol required in R9-25-201(E)(2)(d),
 - ii. Chain of custody for drugs,
 - iii. Compliance with minimum equipment requirements for a ground ambulance vehicle,
 - iv. Compliance with requirements in R9-25-201(E)(3), and
 - v. The quality improvement parameters in subsection (K)(2)(b) related to the provision of services;
 - c. Notifying the Department within 30 calendar days after completing an assessment in subsection (K)(1)(b), during which an instance of noncompliance was identified, and submitting a corrective action plan that complies with requirements in R9-25-910(E)(2)(a) through (d); and
 - d. A quality improvement process according to subsection (K)(2);
 2. Establish, document, and implement a quality improvement process, as specified in policies and procedures, through which:
 - a. Data related to initial patient assessment, patient care, transport services provided, and patient status upon arrival at the destination are:
 - i. Collected continuously;
 - ii. For the information required in subsection (J)(1), submitted to the Department, in a format specified by the Department and within 48 hours after the beginning of a run, for quality improvement purposes; and
 - iii. If notified that the submission of information to the Department according to subsection (K)(2)(a)(ii) was unsuccessful, corrected and resubmitted within seven days after notification;
 - b. Continuous quality improvement processes are developed and implemented to identify, document, and evaluate issues related to the provision of services to ensure quality patient care, including:
 - i. Care provided to patients with time-critical conditions, including deviations from national treatment standards for a patient with a time-critical condition;
 - ii. Transport, including an interfacility transport of a patient that does not have a time-critical condition;
 - iii. Documentation; and
 - iv. Patient status upon arrival at the destination;
 - c. A committee consisting of the administrative medical director, the individual managing the ground ambulance service or designee, and other employees as appropriate:
 - i. Review the data in subsection (K)(2)(a) and any issues identified in subsection (K)(2)(b) on at least a quarterly basis; and
 - ii. Implement activities to improve performance when deviations in patient care, transport, or documentation are identified; and
 - d. The activities in subsection (K)(2)(c) are documented, consistent with A.R.S. §§ 36-2401, 36-2402, and 36-2403; and
 3. Ensure that the information required in ~~subsection (J)(2)~~ subsections (J)(2)(a) through (s) is submitted to the Department, in a Department-provided format, and within 48 hours after the receipt of a call or request for service.
- L.** If a certificate holder has a reasonable basis to believe that a situation or circumstance specified according to A.R.S. § 36-2211(A) has occurred, the certificate holder shall:
1. If applicable, take immediate action to prevent the recurrence of the situation or circumstance;
 2. Report the suspected situation or circumstance to the Department and, if applicable, according to A.R.S. § 13-3620 or 46-454;
 3. Document:
 - a. The suspected situation or circumstance;
 - b. Any action taken according to subsection (L)(1); and
 - c. The report in subsection (L)(2);
 4. Maintain the documentation in subsection (L)(3) for at least 12 months after the date of the report in subsection (L)(2);
 5. Initiate an investigation of the situation or circumstance and document the following information within five working days after the report required in subsection (L)(2):
 - a. The dates, times, and description of the situation or circumstance;

- b. A description of any injury to a patient related to the suspected situation or circumstance and any change to the patient's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected situation or circumstance; and
 - d. The actions taken by the certificate holder to prevent the suspected situation or circumstance from occurring in the future; and
6. Maintain a copy of the documented information required in subsection (L)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- M.** A certificate holder shall notify the Department of a change in the number or location of suboperation stations in the certificate holder's service area, according to A.R.S. § 36-2232(C)(4), and include:
1. The certificate of necessity number for the ground ambulance service;
 2. The name of the ground ambulance services on the certificate of necessity;
 3. The name, title, address, e-mail address, and telephone number of an individual whom the Department may contact about the notification; and
 4. Information about the change, including, as applicable:
 - a. How the number of suboperation stations is changed from the information on the certificate holder's certificate of necessity;
 - b. The address of each suboperation station that is being removed from service; and
 - c. The address, hours of operation, and telephone number of each new suboperation station located within the service area.
- N.** A certificate holder shall submit to the Department, no later than 180 days after the certificate holder's fiscal year end, the information in the Ambulance Revenue and Cost Report specified in R9-25-909(A) or (C), as appropriate to the certificate holder's business organization.

NOTICES OF RULEMAKING DOCKET OPENING

This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening under A.R.S. § 41-1021.

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

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

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

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

NOTICE OF RULEMAKING DOCKET OPENING

**DEPARTMENT OF ECONOMIC SECURITY
REHABILITATION SERVICES**

[R25-02]

1. Permission to proceed with this docket was granted under A.R.S. § 41-1039 by the governor on:
June 21, 2023

2. Title and its heading:
6, Economic Security

Chapter and its heading:
4, Department of Economic Security - Rehabilitation Services

Article and its heading:
1, State Agency Administration
2, Provision of Services to Individuals
3, Business Enterprise Program
4, Other Rules and Provisions that Relate to Providing Services to Individuals

Section numbers:
R6-4-104
R6-4-201 through R6-4-206
R6-4-301 through R6-4-325
R6-4-401 through R6-4-405
(Sections may be added, deleted, or modified as necessary.)

3. The subject matter of the proposed rule:
6 A.A.C. 4 contains rules that govern the Rehabilitation Services Administration’s (RSA’s) Vocational Rehabilitation (VR) services and the Business Enterprise Program (BEP) for entrepreneurs who are blind. Articles 1, 2, and 4 regarding VR were originally created in 1977 and although some of the rules were updated in 1990, most have never been amended. Article 3 regarding BEP has not been amended since it was promulgated in 1990. The Governor’s Office approved a rulemaking moratorium exception for Chapter 4 on June 21, 2023.

The purpose of this rulemaking is to align Chapter 4 with federal regulations and current Department practices, as well as to ensure that the language used in the rule is both modern and respectful to individuals involved with RSA services. In addition, this rulemaking will clarify program requirements for VR clients, stakeholders, and the public. Specifically, the Department is consolidating the rules from Article 4 (“other rules and provisions that relate to providing services to individuals”) into Article 2 (“provision of services to individuals”) and repealing Article 4. This move will result in a unified Article 2 governing all aspects of VR. These changes are consistent with the deficiencies noted in the most recent Chapter 4 Five-Year Review Report approved by the Governor’s Regulatory Review Council on April 2, 2024.

4. A citation to all published notices relating to the current proceeding:
Notice of Proposed Rulemaking: 31 A.A.R. 293, January 24, 2025 (*in this issue*); File number: R25-01

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

Name: Hiroko Flores
Address: 1717 W. Jefferson, Mail Drop 111G
Phoenix, AZ 85007
or
Department of Economic Security
P.O. Box 6123, Mail Drop 111G
Phoenix, AZ 85005
Telephone: (480) 487-7694

Fax: (602) 542-6000
Email: rules@azdes.gov
Website: <https://des.az.gov/documents-center/des-rules>

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

In-Person or Virtual:

Date: Tuesday, February 25, 2025
Time: 2:00 p.m. - 3:00 p.m.
Location: 1717 W. Jefferson, Conference Room B
Phoenix, AZ 85007
Google Meet: <https://meet.google.com/vaq-jmjn-rtn>
Join by Phone: (US)+1 502-309-9636 PIN: 644 927 222#

Persons may participate in the oral proceeding in person at the location listed above or via Google Meet.
Close of record for this rulemaking is 11:59 p.m., on Tuesday, February 25, 2025.

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

None

NOTICES OF AGENCY OMBUDSMAN

The Administrative Procedure Act requires the publication of Notices of Agency Ombudsman under A.R.S. §§ 41-1006(A) and 41-1013(B)(13).

An ombudsman is an agency's point of contact who assists members of the public or regulated community seeking information or guidance from the agency.

NOTICE OF AGENCY OMBUDSMAN

BOARD OF PHYSICAL THERAPY

[M25-01]

1. The agency's name:

Board of Physical Therapy

2. The ombudsman's contact information:

Name: Judy Chepus
Title: Executive Director
Address: 1740 W. Adams St., Suite 2450
Phoenix, AZ 85007
Telephone: (602) 271-7365
Email: judy.chepus@ptboard.az.gov

NOTICES OF PUBLIC INFORMATION

Agencies use Notices of Public Information to notify stakeholders about other information that pertains to rulemaking notices under A.R.S. § 41-1013(B)(14). When required by law, agencies also use this notice to notify the public about information not related to rulemaking.

The most common use for this notice is to correct errors printed in a rulemaking notice or extend a public comment period.

The Administrative Rules Division of the Office does not provide a standard template for Notices of Public Information because the content of this type of notice varies.

An agency shall follow the Office's formatting standards when preparing this type of notice and use a numbered list of questions and answers. Additionally, an agency receipt shall be filed with a Notice of Public Information.

NOTICE OF PUBLIC INFORMATION

DEPARTMENT OF HEALTH SERVICES

[M24-88]

1. Agency Name:

Department of Health Services

2. The public information relating to this notice:

SP-100-PHS-EMS: Clarification of Requirement, Eligibility, and Application for an Initial or Renewal Certificate of Registration for an Air Ambulance Under 9 A.A.C. 25, Article 8

The Arizona Department of Health Services is clarifying that the substantive policy statement specified in paragraph 1 was rescinded, effective June 6, 2023. The substantive policy statement, adopted as of March 14, 2023, contained a provision for the substantive policy statement to be automatically rescinded when rules addressing the same subject matter went into effect in June 2023. However, the date of the rescission would not be clear to a member of the public without this notice.

3. The name and address of agency personnel with whom persons may communicate:

Name: Noreen Adlin, Deputy Bureau Chief
 Address: Arizona Department of Health Services
 Bureau of Emergency Medical Services and Trauma System
 150 N. 18th Ave., Suite 540
 Phoenix, AZ 85007-3248

Telephone: (602) 364-3275

Fax: (602) 364-3568

Email: Noreen.Adlin@azdhs.gov

or

Name: Stacie Gravito, Office Chief
 Address: Arizona 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

Email: Stacie.Gravito@azdhs.gov

NOTICES OF SUBSTANTIVE POLICY STATEMENT

SUMMARIES AND LOCATION OF STATEMENTS

Substantive policy statements are written expressions that inform the general public of an agency’s current approach to rule or regulation practice as defined under A.R.S. § 41-1001(24).

Agencies are required to prepare a Notice of Substantive Policy Statement and publish the titles of its substantive policy statements, a summary of statements, and its website where full statements can be reviewed under A.R.S. § 41-1013(B)(9). These notices are published in this section of the *Register*.

Substantive policy statements are advisory only. A substantive policy statement does not include internal procedural documents that only affect an agency’s internal procedures and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the APA.

Any person may petition an agency under A.R.S. § 41-1033(A)(2) to review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule.

Contact the agency liaison listed under Item #6.

NOTICE OF SUBSTANTIVE POLICY STATEMENT

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ)

[M25-02]

1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced:

Title: Capacity Assurance Certification for APP Type 4.01 General Permits for Sewage Collection Systems
Policy Number: 3000.2024

2. Date the substantive policy statement was issued and the effective date of the policy statement, if different from the issuance date:

Effective: 1/1/2025

3. Summary of the contents of the substantive policy statement:

The policy establishes the following:

- 3.1 All policy statements made in Section 3 are for the purposes of R18-9-E301(C)(1) and R18-9-E301(C)(1)(a).
- 3.2 The Capacity Assurance Certification is an affirmative statement by the Facility such that a completed Capacity Assurance Form meets the requirements of R18-9-E301(C)(1)(a).
- 3.3 Successful completion of the Capacity Assurance Form requires disclosure of the Facility’s Total Committed Capacity, as defined in Section 2.0 of this policy as the “Total Committed Capacity”.
- 3.4 The Administering Agency shall not issue the Applicant a CA if the Facility’s Total Committed Capacity exceeds the Constructed Capacity unless both:
 - 3.4.1 The Facility has other projects or options to provide additional capacity which must be provided along with the Type 4.01 application as supporting documentation; and
 - 3.4.1.1 Options to provide additional capacity may include but are not limited to:
 - 3.4.1.1.1 Interconnection or diversion to another SCS and Facility with capacity, as previously approved by the Administering Agency; or
 - 3.4.1.1.2 Planned expansion (i.e. one accompanied by a submitted permit application to the Administering Agency); or
 - 3.4.1.1.3 Agreement with another sewage treatment facility, as previously approved by the Administering Agency; or
 - 3.4.1.1.4 Other options as approved by the Administering Agency.
 - 3.4.2 The Facility has stopgap measure(s) in place to prevent Operational Flow from exceeding Constructed Capacity. These must be previously approved by the Administering Agency and provided with the Type 4.01 application as supporting documentation.
 - 3.4.2.1 Stopgap measure(s) may include but are not limited to:
 - 3.4.2.1.1 Residential meter management through restrictions on the number of residential water customers that can be added; or
 - 3.4.2.1.2 Industrial or commercial meter management through customer discharge control; or
 - 3.4.2.1.3 Installation of a mechanical plug within the sewer service system to prevent a discharge until capacity is available; or
 - 3.4.2.1.4 Approved agreements in place with the Facility to support stopgap measures; or
 - 3.4.2.1.5 Other measures as approved by the Administering Agency.
 - 3.5 The Total Commitments for a Facility may be revised to recalculate an upstream discharger’s design flow upon a demonstration provided to, and approved by, the Administering Agency that includes:
 - 3.5.1 A flow study based on best available data that may include analysis of actual data within the same or similar service area in order to achieve a lower design flow; and
 - 3.5.2 A complete list of all previously approved developments for which the retroactive flow figures will apply; and

- 3.5.3 The original flow projected for each development on the list of previously approved developments; and
- 3.5.4 The revised flow projected for each listed development based on the new flow study.
- 3.6 The Total Commitments for a Facility may be revised to remove SCS projects that have previously obtained CA approvals if:
 - 3.6.1 The timeframe to complete construction under the CA has expired; and
 - 3.6.2 Construction on the SCS project has not started; and
 - 3.6.3 The Applicant, responsible parties, and their agents have been formally notified via certified mail that the Facility has retracted their Capacity Assurance authorization; and
 - 3.6.4 Copies of these retraction documents and expired CAs have been submitted as an appendix to the Capacity Assurance form.
- 3.7 Issuance of a CA shall include a disclaimer stating that the approval of a DA for the SCS project is contingent upon Constructed Capacity being available at the time the DA application is submitted to the Administering Agency.
- 3.8 The Administering Agency shall not issue a CA to the Applicant if the Facility's Operational Flow exceeds the Constructed Capacity.
- 3.9 An Applicant must submit a completed Capacity Assurance Form in order for the Administering Agency to issue a Type 4.01 GP.
- 3.10 Any other contractual agreements between the Facility and the proposed SCS regarding a reservation of capacity are solely the responsibility of the Type 4.01 GP Applicant and the Facility.

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:

A.R.S. § 49-104 provides authority for ADEQ to formulate policies, plans and programs to implement Title 49 to protect the environment.

A.R.S. § 49-245 provides authority for ADEQ to promulgate rules for general APP.

5. A statement as to whether the substantive policy statement is a new statement or a revision:

This substantive policy statement is a revision of the ADEQ Compliance and Enforcement Handbook.

6. The agency contact person who can answer questions about the substantive policy statement:

Name: Natalie Kilker, Legal Specialist
 Address: Arizona Department of Environmental Quality
 1110 W. Washington St.
 Phoenix, AZ 85007
 Telephone: (602) 771-0358
 Email: kilker.natalie@azdeq.gov
 Website: www.azdeq.gov

7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:

Copies of this document are available at no cost on the Department's website here: <https://azdeq.gov/node/1840>. Hard copies may be obtained by contacting <http://www.azdeq.gov/records-center> the ADEQ Records Center, 8:30 AM to 4:30 PM Monday through Friday, 1110 W. Washington St., Phoenix, AZ 85007, (602) 771-4380. Cost is \$0.25 per page.

NOTICE OF SUBSTANTIVE POLICY STATEMENT

DEPARTMENT OF HEALTH SERVICES

[M24-89]

1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced:

SP-041-PHS-EMS: Attendance at an Informal Interview Conducted under A.R.S. § 36-2211(C)

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:

Issuance date: December 30, 2024

Effective date: January 1, 2025

3. Summary of the contents of the substantive policy statement:

The substantive policy statement notifies the public of the policy of the Arizona Department of Health Services (Department) regarding informal interviews conducted under Arizona Revised Statutes (A.R.S.) § 36-2211(C).

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:

A.R.S. § 36-2211

5. A statement as to whether the substantive policy statement is a new statement or a revision:

This is a revised substantive policy statement that updates the current substantive policy statement to better clarify and accommodate virtual meetings through electronic means.

6. The agency contact person who can answer questions about the substantive policy statement:

Name: Noreen Adlin, Deputy Bureau Chief

Address: Arizona Department of Health Services
 Bureau of Emergency Medical Services and Trauma System
 150 N. 18th Ave., Suite 540
 Phoenix, AZ 85007-3248

Telephone: (602) 364-3275

Fax: (602) 364-3568

Email: Noreen.Adlin@azdhs.gov
 or

Name: Stacie Gravito, Office Chief

Address: Arizona 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

Email: Stacie.Gravito@azdhs.gov

7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:

A copy of the substantive policy statement is available, free of charge, from the Arizona Department of Health Services, Office of Administrative Counsel and Rules at the following web address: <https://www.azdhs.gov/policy-intergovernmental-affairs/administrative-counsel-rules/rules/index.php#sps-preparedness>. A copy of the substantive policy statement may also be obtained from the Arizona Department of Health Services, Bureau of Emergency Medical Services and Trauma System, 150 N. 18th Avenue, Suite 540, Phoenix, AZ 85007, for 25 cents per page. Payment is accepted in cash or money order made payable to the Arizona Department of Health Services.

NOTICE OF SUBSTANTIVE POLICY STATEMENT

DEPARTMENT OF HEALTH SERVICES

[M24-90]

1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced:

SP-072-PHS-EMS: Interpretation of “Authorized Federal or State Emergency Response Deployment”

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:

Issuance date: December 30, 2024

Effective date: January 1, 2025

3. Summary of the contents of the substantive policy statement:

The substantive policy statement notifies the public how the Arizona Department of Health Services (Department) interprets “authorized federal or state emergency response deployment” in Arizona Administrative Code (A.A.C.) R9-25-405.

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:

A.A.C. R9-25-404 and R9-25-405

5. A statement as to whether the substantive policy statement is a new statement or a revision:

This is a revised substantive policy statement that clarifies the content of the substantive policy statement.

6. The agency contact person who can answer questions about the substantive policy statement:

Name: Noreen Adlin, Deputy Bureau Chief
 Address: Arizona Department of Health Services
 Bureau of Emergency Medical Services and Trauma System
 150 N. 18th Ave., Suite 540
 Phoenix, AZ 85007-3248

Telephone: (602) 364-3275

Fax: (602) 364-3568

Email: Noreen.Adlin@azdhs.gov
 or

Name: Stacie Gravito, Office Chief

Address: Arizona 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

Email: Stacie.Gravito@azdhs.gov

7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:

A copy of the substantive policy statement is available, free of charge, from the Arizona Department of Health Services, Office of Administrative Counsel and Rules at the following web address: <https://www.azdhs.gov/policy-intergovernmental-affairs/administrative-counsel-rules/rules/index.php#sps-preparedness>. A copy of the substantive policy statement may also be obtained from the Arizona Department of Health Services, Bureau of Emergency Medical Services and Trauma System, 150 N. 18th Avenue, Suite 540, Phoenix, AZ 85007, for 25 cents per page. Payment is accepted in cash or money order made payable to the Arizona Department of Health Services.

NOTICE OF SUBSTANTIVE POLICY STATEMENT

DEPARTMENT OF HEALTH SERVICES

[M24-91]

1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced:

SP-082-PHS-EMS: Emergency Medical Care Technicians Practicing in Other Than a Pre-Hospital Setting

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:

Issuance date: December 30, 2024

Effective date: January 1, 2025

3. Summary of the contents of the substantive policy statement:

The substantive policy statement notifies the public of the policy of the Arizona Department of Health Services (Department) regarding emergency medical care technicians (EMCTs) practicing in settings other than the pre-hospital environment.

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:

Arizona Revised Statutes Title 36, Chapter 4 and Chapter 21.1 and Arizona Administrative Code Title 9, Chapter 10, Articles 1 and 2 and Title 9, Chapter 25, Articles 2, 4, and 5.

5. A statement as to whether the substantive policy statement is a new statement or a revision:

This is a revised substantive policy statement that recognizes that EMCTs may practice in many settings other than the pre-hospital environment and hospitals.

6. The agency contact person who can answer questions about the substantive policy statement:

Name: Noreen Adlin, Deputy Bureau Chief
Address: Arizona Department of Health Services
Bureau of Emergency Medical Services and Trauma System
150 N. 18th Ave., Suite 540
Phoenix, AZ 85007-3248

Telephone: (602) 364-3275

Fax: (602) 364-3568

Email: Noreen.Adlin@azdhs.gov

or

Name: Stacie Gravito, Office Chief
Address: Arizona 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

Email: Stacie.Gravito@azdhs.gov

7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:

A copy of the substantive policy statement is available, free of charge, from the Arizona Department of Health Services, Office of Administrative Counsel and Rules at the following web address: <https://www.azdhs.gov/policy-intergovernmental-affairs/administrative-counsel-rules/rules/index.php#sps-preparedness>. A copy of the substantive policy statement may also be obtained from the Arizona Department of Health Services from either the Bureau of Emergency Medical Services and Trauma System or the Division of Public Health Licensing Services, 150 N. 18th Avenue, Phoenix, AZ 85007 for 25 cents per page. Payment is accepted in cash or money order made payable to the Arizona Department of Health Services.

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

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

EXEMPT SUPPLEMENTAL PROPOSED

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

FINAL EXEMPT RULEMAKING

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

EMERGENCY RULEMAKING

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

RECODIFICATION OF RULES

RC = Recodified

REJECTION OF RULES

RJ = Rejected by the Attorney General

TERMINATION OF RULES

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

RULE EXPIRATIONS

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 See also “emergency expired” under emergency rulemaking

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2025 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	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date
1/1	3/2	2/1	4/2	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/3	2/2	4/3	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/4	2/3	4/4	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/5	2/4	4/5	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/6	2/5	4/6	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/7	2/6	4/7	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/8	2/7	4/8	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/9	2/8	4/9	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/10	2/9	4/10	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/11	2/10	4/11	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/12	2/11	4/12	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/13	2/12	4/13	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/14	2/13	4/14	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/15	2/14	4/15	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/16	2/15	4/16	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/17	2/16	4/17	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/18	2/17	4/18	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/19	2/18	4/19	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/20	2/19	4/20	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/21	2/20	4/21	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/22	2/21	4/22	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/23	2/22	4/23	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/24	2/23	4/24	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/25	2/24	4/25	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/26	2/25	4/26	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/27	2/26	4/27	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/28	2/27	4/28	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/29	2/28	4/29	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/30			3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/31			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	4/1			3/31	5/30			5/31	7/30		

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

REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the *Register* weekly. There is a three-week delay between the deadline date and the *Register* publication date. The weekly deadline dates (*first column*) and issue dates (*second column*) 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 Friday, 5:00 p.m.	Register Publication Date	Oral Proceeding may be scheduled on or after <i>(*later date due to holiday)</i>
November 29, 2024	December 20, 2024	January 20, 2025
December 6, 2024	December 27, 2024	January 27, 2025
December 13, 2024	January 3, 2025	February 3, 2025
December 20, 2024	January 10, 2025	February 10, 2025
December 27, 2024	January 17, 2025	February 17, 2025
January 3, 2025	January 24, 2025	February 24, 2025
January 10, 2025	January 31, 2025	March 3, 2025
January 17, 2025	February 7, 2025	March 10, 2025
January 24, 2025	February 14, 2025	March 17, 2025
January 31, 2025	February 21, 2025	March 24, 2025
February 7, 2025	February 28, 2025	March 31, 2025
February 14, 2025	March 7, 2025	April 7, 2025
February 21, 2025	March 14, 2025	April 14, 2025
February 28, 2025	March 21, 2025	April 21, 2025
March 7, 2025	March 28, 2025	April 28, 2025
March 14, 2025	April 4, 2025	May 5, 2025
March 21, 2025	April 11, 2025	May 12, 2025
March 28, 2025	April 18, 2025	May 19, 2025
April 4, 2025	April 25, 2025	May 27, 2025
April 11, 2025	May 2, 2025	June 2, 2025
April 18, 2025	May 9, 2025	June 9, 2025
April 25, 2025	May 16, 2025	June 16, 2025

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 <https://grrc.az.gov>.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2024/2025
(MEETING DATES ARE SUBJECT TO CHANGE)

[M24-54]

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

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
<i>Tuesday</i> October 22, 2024	<i>Tuesday</i> November 19, 2024	<i>Tuesday</i> November 22, 2024	<i>Tuesday</i> December 3, 2024
<i>Tuesday</i> December 24, 2024	<i>Tuesday</i> January 21, 2025	<i>Tuesday</i> January 28, 2025	<i>Tuesday</i> February 4, 2025
<i>Tuesday</i> January 21, 2025	<i>Wednesday</i> February 19, 2025	<i>Tuesday</i> February 25, 2025	<i>Tuesday</i> March 4, 2025
<i>Tuesday</i> February 18, 2025	<i>Tuesday</i> March 18, 2025	<i>Tuesday</i> March 25, 2025	<i>Tuesday</i> April 1, 2025
<i>Tuesday</i> March 18, 2025	<i>Tuesday</i> April 22, 2025	<i>Tuesday</i> April 29, 2025	<i>Tuesday</i> May 6, 2025
<i>Tuesday</i> April 22, 2025	<i>Tuesday</i> May 20, 2025	<i>Wednesday</i> May 28, 2025	<i>Tuesday</i> June 3, 2025
<i>Tuesday</i> May 20, 2025	<i>Tuesday</i> June 17, 2025	<i>Tuesday</i> June 24, 2025	<i>Tuesday</i> July 1, 2025
<i>Tuesday</i> June 17, 2025	<i>Tuesday</i> July 22, 2025	<i>Tuesday</i> July 29, 2025	<i>Tuesday</i> August 5, 2025
<i>Tuesday</i> July 22, 2025	<i>Tuesday</i> August 19, 2025	<i>Tuesday</i> August 26, 2025	<i>Wednesday</i> September 3, 2025
<i>Tuesday</i> August 19, 2025	<i>Tuesday</i> September 23, 2025	<i>Tuesday</i> September 30, 2025	<i>Tuesday</i> October 7, 2025
<i>Tuesday</i> September 23, 2025	<i>Tuesday</i> October 21, 2025	<i>Tuesday</i> October 28, 2025	<i>Tuesday</i> November 4, 2025
<i>Tuesday</i> October 21, 2025	<i>Tuesday</i> November 18, 2025	<i>Tuesday</i> November 25, 2025	<i>Tuesday</i> December 2, 2025
<i>Tuesday</i> December 23, 2025	<i>Wednesday</i> January 21, 2026	<i>Tuesday</i> January 27, 2026	<i>Tuesday</i> February 3, 2026