

Arizona Administrative

REGISTER

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ABOUT THIS PUBLICATION

The authenticated pdf of the *Administrative Register* (A.A.R.) posted on the Office of the Secretary of State's website is the official published version for rulemaking activity in the state of Arizona. The *Register* is published weekly by issue number, every Friday by the Administrative Rules Division.

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

The *Register* contains notices of docket openings, proposed, final, emergency, expedited, exempt, and terminated rules as defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), and A.R.S. Title 41, Chapter 6, Articles 1 through 10. Other "notice only" filings are published in the *Register* which includes Informal Public Meetings on an Open Rulemaking Docket, Formal Rulemaking Advisory Committees, Public Information, Oral Proceedings, Public Hearings, Public Meetings, Agency Guidance Documents, Substantive Policy Statements, Proposed Delegation Agreements, Final Delegation Agreements, and Agency Ombudsman.

ABOUT AMENDMENTS TO RULES

Rulemaking is defined in the APA. Rules can be made (all new text); amended (changed) or repealed (removed) as codified in the *Arizona Administrative Code*; or renumbered (moving rules to a different Section number). New rules published in the *Register*, whether proposed or made as a final rule, are underlined; repealed rules (text being removed), is stricken.

ABOUT THE TABLE OF CONTENTS

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.

ABOUT FILE NUMBERS

Notices filed in the Division are assigned a file number. This number is enclosed in brackets and located at the top right of the published documents in the *Register*. Original filed notices are available in pdf for free. For a copy, contact our Division with the file number.

ABOUT THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* (A.A.C.) contains codified text of rules. When published, the underling and striking of text in notices as published in the *Register* are removed. The codified rules have either been approved by the Governor's Regulatory Review Council or Attorney General as prescribed under the APA. The *Code* also contains rules exempt from the rulemaking process, and emergency rules. The authenticated pdf of *Code* Chapters posted on the Office of the Secretary of State's website are the official published version of rules in the A.A.C. The *Code* is posted online for free.

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

Participate in Rulemaking

Review Published Notices

Those interested in participating in the rulemaking process should review notices published in the *Arizona Administrative Register*.

The Preamble at the beginning of a notice contains information about the rulemaking and provides agency justification and regulatory intent. Agency contact information is published in the Preamble for those interested in participating in the rulemaking process.

The Preamble 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.

Agency Contact Lists

Many agencies maintain stakeholder lists to contact those interested in proposed changes to rules. Check an agency's website and its newsletters for information about notices, oral proceedings, 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. Refer to A.R.S. § 41-1033 for more information.

Attend a Public Meeting

Stakeholders can attend an public meeting, known as an oral proceeding, being conducted by the agency on a Notice of Proposed Rulemaking. A proceeding may be listed in the Preamble of a Notice of Proposed Rulemaking or an agency may inform the public of the meeting in a Notice of Oral Proceeding. Attend the meeting and be prepared to speak and comment.

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

Refer to information in the Preamble.

Write the Agency

Put your comments in writing and send them 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, before the rules are filed with the Secretary of State.

THE REGULAR RULEMAKING PROCESS

Authority

An agency is given the authority to promulgate a rule under the APA, statute passed by the Legislature, or ballot proposition, which is passed by the voters.

An agency may be given certain exemptions to the APA or portions thereof.

Information about the exemptions are provided in the Preamble of the rulemaking.

Permission to Proceed

Before moving forward with any notice, an agency first receives permission from the governor's office to proceed with a rulemaking.

The governor's office provides the agency a written response to proceed that is filed with the notice.

Stakeholder and Public Notification

The agency opens a docket. It is filed as a Notice of Rulemaking Docket Opening for publication in the *Register*.

The notice includes agency contact information along with its intentions to make, amend, repeal, or renumber, a rule and its justification to perform the rulemaking action. Often an agency will file the docket with the proposed rulemaking.

An agency may decide not to proceed and not file final rule with G.R.R.C. within one year after proposed rule is published. A.R.S. § 41-1021(A)(4)

Agency Proposes Rules, Public Reviews Proposal

The agency files a Notice of Proposed Rulemaking and the notice is published in the *Register*.

The public is given the opportunity to comment on the proposed rules. The agency opens the comment period to last at least 30 days. Written comments are accepted informally.

The notice *may* contain information about oral proceedings.

A proceeding is held no sooner than 30 days after the notice is published.

If no proceeding is scheduled, the agency provides information on how a person may request to speak to the agency in person at an oral proceeding.

Oral Proceeding

A person requests an agency to conduct an oral proceeding based on the information provided in its Notice of Proposed Rulemaking.

The agency prepares a Notice of Oral Proceeding on Proposed Rulemaking, schedules one or more proceeding, and files the notice for publication in the *Register*.

When it occurs, an agency extends the public comment period.

Close of Record

After evaluating public comments and conducting an internal review of the rule, an agency:

1. Determines whether the rulemaking requires a substantial change. When an agency decides to make substantial changes to a proposed rule, it continues the process as outlined under the APA. The agency obtains permission to proceed as stated under #2 of this timeline. The agency prepares a Notice of Supplemental Proposed Rulemaking with the changes and files it for publication in the *Register*. Comments are once again solicited and reviewed by the agency.
2. Prepares and submits for review a Notice of Final Rulemaking for review and approval by G.R.R.C. or Attorney General. The Notice of Final Rulemaking must be submitted for review within 120 days after the close of record; or
3. Terminates the rulemaking. The agency may decide to terminate its docket and files a notice for publication in the *Register* notifying stakeholders of the termination. Refer to A.R.S. § 41-1021(A)(2).

Time Frame for Approval or Disapproval of the Notice

G.R.R.C. has 90 days to review and approve or return the rule package, in whole or in part; A.G. has 60 days.

The Approved Rule is Published in Register and Codified in the Code

After approval by G.R.R.C. or A.G., the rule becomes effective 60 days after filing the notice with the Office of the Secretary of State, unless otherwise indicated in the Preamble of the notice.

The Notice of Final Rulemaking is published in the *Register* and codified in the *Arizona Administrative Code*.

Definitions and Acronyms

Arizona Administrative Code, 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, 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 Reuters. 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.

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The Administrative Procedure Act (APA) requires an agency file a Notice of Rulemaking Docket Opening which outlines its rulemaking intentions under [A.R.S. § 41-1021](#). A docket opening and Notice of Proposed Rulemaking are often filed at the same time and published in the same *Register* issue. If they are not filed at the same time, information on where the docket opening was published is listed in the preamble of the proposed rulemaking.

An agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before scheduling any oral proceedings. Written public comments shall be accepted for at least 30 days after the published notice. Refer to A.R.S. §§ [41-1013](#), [41-1022](#) and [41-1023](#).

Questions about the notice can be answered by the person listed in item #5 of the preamble.

Refer to item #11 of the preamble for information on how to comment on this notice, the close of record to comment, and information related to oral proceedings.

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TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR POLLUTION CONTROL

File Number: R26-179

PREAMBLE

1. **Permission to proceed with this proposed rulemaking was granted under A.R.S. § 41-1039 by the governor on:**
February 7, 2024

2. Article, Part, or Section Affected (as applicable)	Rulemaking Action
R18-2-613	Amend
R18-2-613.01	Amend
R18-2-E1301	New Section
R18-2-E1302	New Section
R18-2-E1303	New Section
Appendix 16	New Appendix

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. §§ 49-404(A) and 49-406
Implementing statute: A.R.S. § 49-425(A)

4. **Citations to all related notices published in the *Register* that pertain to the current record of the proposed rule:**
Notice of Rulemaking Docket Opening: 32 A.A.R. 765; Issue Date: March 27, 2026; Issue Number: 13; File Number: R26-38

5. **The agency's contact person who can answer questions about the rulemaking:**
Name: Steve Burr
Title: Senior Environmental Consultant
Division: Air Quality Division
Address: 1110 W. Washington St., #160
Phoenix, AZ 85007
Telephone: (602) 771-2300
Email: airplanning@azdeq.gov
Website: <https://azdeq.gov>

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

Summary.

In this rulemaking, the Arizona Department of Environmental Quality (ADEQ) is proposing to adopt rule amendments designed to reduce emissions of PM₁₀ (particulate matter with an aerodynamic diameter of 10 microns or less) in the Yuma moderate PM₁₀ Nonattainment Area (Yuma NAA). ADEQ proposes to amend the Agricultural Best Management Practices (AgBMP) rules for the Yuma NAA in Arizona Administrative Code (A.A.C.) Title 18, Chapter 2, Article 6 to improve clarity and enforceability. In addition, ADEQ is proposing to add new rules for controlling fugitive dust from construction, vacant lots, and roads in the Yuma NAA to A.A.C. Title 18, Chapter 2, Article 13. Finally, ADEQ proposes to adopt a new Appendix 16, which establishes methods for determining compliance with the new construction and open area rules.

These amendments and new rules will enable ADEQ to submit a state implementation plan (SIP) satisfying the moderate PM₁₀ NAA requirements of the federal Clean Air Act (CAA) for the Yuma NAA. Satisfying these requirements is necessary to prevent the Yuma NAA from being reclassified from moderate to serious, to prevent the imposition of sanctions and a federal implementation plan (FIP), and to improve air quality and to protect human health.

PM₁₀ National Ambient Air Quality Standards (NAAQS) Background.

Section 109 of the CAA requires the U.S. Environmental Protection Agency (EPA) to set National Ambient Air Quality Standards (NAAQS) for pollutants that endanger public health and the environment. Standards have been set for six air pollutants: ground-level ozone (O₃), particulate matter (PM), carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), and lead (Pb). EPA sets two types of NAAQS, a primary standard and a secondary standard. Primary standards are set to protect human health, and secondary standards are established to protect public welfare, including protection of visibility and prevention of damage to animals, crops, vegetation, and buildings.

Each NAAQS includes an indicator, maximum concentration, averaging time, and form. An indicator for an air pollutant is a specific chemical compound or physical property measured in the air to track overall pollution levels and assess environmental and public health risks. The form is the specific air quality statistic used to compare monitored pollutant data against the standard. The NAAQS are periodically reevaluated and are either retained or revised based on review of the latest scientific literature and analyses.

PM is finely divided liquid or solid particles that become suspended in the air. On July 1, 1987, EPA revised the NAAQS for PM to change the indicator to cover only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀). 52 FR 24634 (July 1, 1987). See 40 CFR 50.6. The 24-hour primary PM₁₀ standard is 150 micrograms per cubic meter (µg/m³) with no more than one expected exceedance per year, averaged over a three-year period. The secondary PM₁₀ standard, promulgated to protect against adverse welfare effects, is identical to the primary standard.

An extensive body of science links PM₁₀ pollution to a range of serious and sometimes deadly illnesses including premature death in people with heart or lung disease, nonfatal heart attacks, irregular heartbeat, aggravated asthma, and decreased lung function or increased respiratory symptoms, such as irritation of the airways, coughing or difficulty breathing.

Yuma PM₁₀ Nonattainment Area.

The current Yuma PM₁₀ NAA was identified by EPA as a Group I area, see 52 FR 29383 (Aug. 7, 1987), and was thus designated nonattainment for PM₁₀ by operation of law and classified as moderate upon enactment of the 1990 CAA amendments. The PM₁₀ NAA designation for Yuma was later codified in 40 CFR part 81 on November 6, 1991. In accordance with section 189(a)(2) of the CAA, Arizona was to submit a SIP revision by November 15, 1991, demonstrating attainment of the PM₁₀ standards by December 31, 1994 for the Yuma area. Arizona submitted a SIP revision for the Yuma NAA in 1991, and another revision was submitted in 1994 adopting a range of PM₁₀ control measures to reduce PM₁₀ emissions in the Yuma NAA. EPA took no action to approve or disapprove these plans.

On March 14, 2006, the EPA issued a clean data determination (CDD) for the Yuma NAA for the 1987 24-hour PM₁₀ NAAQS, based on complete, quality-assured and certified PM₁₀ monitoring data from 2002-2004 showing no exceedances of the PM₁₀ NAAQS. 71 FR 13021 (March 14, 2006). This action was a finding of attainment under sections 179(c)(1) and 188(b)(2) of the CAA, but not a redesignation to attainment under CAA section 107(d)(3) because the area did not have an approved maintenance plan meeting the requirements of section 175A of the CAA or a determination that the area has met the other CAA requirements for redesignation. The nonattainment area's classification and designation status must meet the CAA requirements for redesignation before it may be redesignated from nonat-

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tainment to attainment. This CDD did, however, suspend certain nonattainment plan requirements in the Yuma NAA for so long as the Yuma NAA continued to monitor attainment of the 1987 24-hour PM₁₀ and annual NAAQS, including: the part D, subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the reasonable further progress (RFP) provisions established by section 189(c)(1), and the attainment demonstration, RFP and contingency measure provisions of part D, subpart 1 contained in section 172 of the CAA.

In August 2006, ADEQ submitted the Yuma PM₁₀ Maintenance SIP and Redesignation Request to EPA. Several issues prevented approval of the SIP, including failure to clearly identify source categories or the specific permanent and enforceable control measures that were implemented and demonstrated to achieve attainment and maintenance of the NAAQS. The 2006 Yuma NAA Maintenance SIP and Redesignation Request was subsequently withdrawn.

Complete, quality-assured and certified PM₁₀ ambient air quality monitoring data from 2006 to 2025 and preliminary monitoring data from 2026 for the Yuma NAA indicate that the Yuma NAA has had a violating design value for the 24-hour PM₁₀ NAAQS every year since 2006. In air quality planning, a design value is a calculated statistic representing the average number of times per year an area exceeds the 24-hour PM₁₀ standard over a three year period, used by regulators to determine whether an area complies with the NAAQS. As noted above, the 24-hour PM₁₀ standard is met when the expected number of exceedances per year is less than or equal to one on average over a three-year period. However, from 2006 to 2025, the 24-hour PM₁₀ design value for the Yuma NAA has ranged from 2 to 8 expected exceedance days per year with an average design value of 5.5 expected exceedance days per year.

On May 17, 2022, EPA took final action to rescind its previously issued clean data determination for the Yuma, Arizona moderate NAA because the Yuma NAA was no longer attaining the 24-hour PM₁₀ NAAQS based on recent, complete, quality-assured monitoring data from 2017-2019 showing that the area was violating the PM₁₀ NAAQS. 87 FR 29830. The EPA action also determined that the Arizona SIP is substantially inadequate to attain or maintain the PM₁₀ standard in the Yuma NAA and called for Arizona to submit a SIP revision meeting the applicable nonattainment plan requirements of the CAA for Moderate PM₁₀ NAAs. EPA also reversed its previous adequacy finding for the motor vehicle emissions budgets in the Yuma Maintenance Plan to a finding of inadequacy pursuant to 40 CFR 93.118(f)(1)(vi).

This nonattainment plan SIP revision required under the 2022 final rule was due to EPA within 18 months of the the final rule, November 17, 2023, and must demonstrate attainment by the deadline set in the final rule, December 31, 2027.

If EPA disapproves any of the required SIP elements for Yuma required under Part D of the CAA or finds that the state failed to submit one or more of the required SIP elements, the Yuma NAA will become subject to CAA sanctions under CAA section 179. The CAA sanctions consist of requiring new or modified major industrial facilities in the Yuma NAA to offset their emissions of PM₁₀ by a ratio of 2 to 1, starting 18 months after the effective date of EPA's finding, and the loss of most federal highway funding for the NAA starting six months later, unless the State submits a SIP revision that corrects the deficiencies. Furthermore, unless the State corrects the deficiencies, the EPA must promulgate a Federal Implementation Plan (FIP) under CAA section 110(c) within 24 months to compensate for the state's failure.

Clean Air Act PM₁₀ Nonattainment Area Requirements.

The following is a summary of the planning requirements for a moderate PM₁₀ NAAs. The proposed rule amendments are designed to satisfy these requirements and, if finalized, will be submitted to EPA as part of the moderate PM₁₀ NAA SIP for the Yuma NAA.

Reasonably Available Control Measures.

Sections 172(c)(1) and 189(a)(1)(C) of the Clean Air Act require that PM₁₀ NAA plans include provisions ensuring that reasonably available control measures (RACM) are implemented, including, at a minimum, the adoption of reasonably available control technology (RACT). EPA has not identified a specific set of control measures that qualify as RACM: "Under EPA's policy concerning RACM, there are no measures that are automatically deemed RACM," (70 FR 71612 (Nov. 29, 2005)). Instead, EPA recognizes that the requirement for RACM relates to the requirement to achieve attainment of the NAAQS. EPA determined that it may approve any SIP submittal lacking specific RACM control measures if the state demonstrates "(a) that reasonable further progress and attainment of the NAAQS are assured, and (b) that application of all RACM would not result in attainment any faster..." (44 FR 20372, 20375 (Nov. 29, 2005)). Several courts have upheld EPA's interpretation of the RACM requirement (e.g., *Sierra Club v. EPA*, 314 F. 3d 735 (5th Cir. 2002) and *Sierra Club v. EPA*, 294 F. 3d 155 (D.C. Cir. 2002)).

RACM includes the emissions controls necessary to meet reasonable further progress (RFP) requirements and bring an area into attainment as expeditiously as practicable. To qualify as RACM, EPA considers whether the control measure meets the following five criteria: the control measure should 1) be technologically feasible, 2) be economically

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reasonable, 3) not result in “substantial widespread and long-term adverse impacts,” 4) not be “absurd, unenforceable, or impracticable,” and 5) advance the attainment date by at least one year (74 FR 2945 (Jan. 16, 2009)).

Attainment Demonstration.

Attainment demonstrations describe the measures for achieving a NAAQS in areas that are designated as nonattainment. Attainment demonstrations generally include a comprehensive analysis of ambient air quality monitoring data, emissions inventories of directly emitted pollutants and, if necessary, precursors for source sectors within the NAA, and air dispersion modeling demonstrating that planned control strategies and emissions reductions measures will result in the needed air quality improvements.

Reasonable Further Progress.

Section 189(c) of the CAA requires quantitative milestones to be achieved every three years until an area reaches attainment. These milestones are to be based on RFP. RFP is defined in section 171(1) as the annual incremental reductions in emissions required for the purpose of ensuring attainment of the NAAQS by the applicable date.

Contingency Measures.

Section 172(c)(9) of the CAA requires that a NAA SIP provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the NAAQS by the attainment date and requires these measures take effect without further action by the State or EPA. Consistent with the text of Section 172(c)(9), these measures must be specific, adopted measures that are ready to be implemented quickly upon failure to meet RFP or failure of the area to meet the standard by its attainment date. EPA provided guidance on the Section 172(c)(9) contingency measure requirement in an interpretative document entitled “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” (57 FR 13498 (April 16, 1992)). In that document, EPA explains that “contingency measures should, at a minimum, ensure that an appropriate level of emission reduction progress continues to be made if attainment [or] RFP is not achieved and additional planning by the State is needed” (57 FR 13498 (April 16, 1992)).

The CAA does not specify how many contingency measures are required or the magnitude of emission reductions that must be provided by these measures. However, with respect to the level of emission reductions associated with contingency measures, EPA has recommended that states consider “the potential nature and extent of any attainment shortfall for the area” and the amount of actual emission reductions required by the SIP control strategy to attain the standards. The contingency measures are to be implemented if the area does not meet RFP or attain the standards by the attainment date, and “should represent a portion of the actual emission reductions necessary to bring about attainment in area” (72 FR 20586 (April 25, 2007)). Accordingly, EPA has recommended that the emission reductions anticipated by the contingency measures should be equal to approximately one year’s worth of emission reductions needed to achieve RFP for the area. See *EPA Guidance on the Preparation of State Implementation Plan Provisions that Address the Nonattainment Area Contingency Measure Requirements for Ozone and Particulate Matter* (2024).

Reclassification on Failure to Attain

Section 188(b)(2) provides that if EPA finds a moderate PM₁₀ NAA has failed to attain the NAAQS by the applicable deadline, the area is automatically reclassified to serious. The primary difference between a moderate and serious NAA is that a serious area is required to implement best available control measures (BACM), rather than RACM. Unlike RACM, BACM must be imposed on all significant sources of PM₁₀ regardless of whether doing so will accelerate the attainment date and with less consideration given to economic reasonableness.

To demonstrate attainment with the PM₁₀ NAAQS, a NAA must produce three consecutive, recent years of quality-assured ambient monitoring data demonstrating that the annual average expected exceedances of the PM₁₀ NAAQS over the three-year period are less than or equal to one. An area that cannot show attainment by the deadline may qualify for a one-year extension, if the latest year of monitoring data shows no more than one expected exceedance occurred. Another extension may be granted if the area meets this condition for a second year. If at the end of the third year the area’s three-year average of expected exceedances is less than or equal to one, the area qualifies for an attainment determination. CAA § 188(d).

As noted above, on rescission of the attainment determination for the Yuma NAA, EPA established an attainment deadline of December 31, 2027. Monitoring data for 2025 and 2026 shows that the Yuma NAA will not have three years of data demonstrating attainment of the NAAQS by the end of 2027. If, however, the Yuma NAA experiences one or less expected exceedances of the PM₁₀ NAAQS during 2027, it may qualify for a one-year extension. Thus, it may still be possible for the Yuma NAA to avoid reclassification to serious. It is therefore important to implement PM₁₀ emission reduction strategies in the Yuma NAA as soon as possible, preferably by the beginning of 2027.

Exceptional Events

Under the CAA, an “exceptional event” is an event that affects air quality, is not reasonably controllable or preventable,

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and is caused by human activity that is unlikely to recur at a particular location or a natural event CAA § 319(b)(1)(A). States, tribes, or local agencies can submit demonstrations to the EPA showing that an exceptional event caused a specific exceedance of the NAAQS. If the EPA concurs with the demonstration, the influenced data is excluded from attainment determinations. Common examples of exceptional events include wildfires and high wind dust storms.

A crucial part of any exceptional event demonstration is proving the event meets the statutory "not reasonably controllable or preventable" criterion. While purely natural events (like a remote wildfire) are generally presumed to be unpreventable, events that involve human-made sources require agencies to prove that appropriate mitigation measures were in place at the time of the event. In the case of high-wind events, EPA's exception events rule specifically requires a demonstration that either the "dust is entirely from natural undisturbed lands" or that "all anthropogenic sources are reasonably controlled." 40 CFR 50.14(b)(5)(ii). The proposed rules are intended not only as the foundation of the non-attainment area plan, but also to substantively fulfill this requirement.

The Yuma PM₁₀ Nonattainment Area SIP

As the first step in developing rule amendments to satisfy the CAA requirements for the moderate Yuma PM₁₀ NAA, ADEQ had to identify the emission source categories that qualified as making a "significant contribution" to ambient concentrations of PM₁₀ in the NAA. 57 FR 13498 (Apr. 16, 1992). Under EPA guidance, a significant contribution is a level of emissions that results in an ambient impact of 5 µg/m³ averaged over 24 hours. Using EPA-approved air quality dispersion modeling, ADEQ identified that the following source categories crossed the significant contribution threshold in the Yuma NAA during at least one PM₁₀ exceedance episode between 2017 and 2021: traffic over both paved and unpaved roads (including impacts from trackout onto paved public roads), construction, and windblown dust from land uses including agricultural operations, vacant lots and other open areas such as open desert or military reservation, and other developed or developing areas.

To identify potential RACM for these source categories, ADEQ reviewed control requirements adopted for the same sources in other jurisdictions with past or present PM₁₀ NAAs, including Maricopa County and Imperial County, California, which is located directly across the Arizona/California border and has a mix of PM₁₀ emission sources very similar to that in the Yuma NAA.

For each of these sources, ADEQ developed a list of controls and evaluated the potential emission and ambient concentration reductions that could be achieved through their implementation. The goal of this process was to find the package of controls that would lead to attainment of the NAAQS as quickly as practicable and satisfy the other NAA requirements with the lowest economic impact on the affected industries and other regulated entities. This was an iterative process informed throughout, as documented below, by stakeholder input on the projected impact and effectiveness of the controls. It involved adjusting the elements of the control strategy, such as the applicability and stringency of individual requirements, estimating the impact of the adjustments on emissions, and then modeling the emissions to predict the ambient impacts.

Once the control strategy was developed, it was translated into the rule amendments and new rules proposed in this notice and summarized below.

Amendments to R18-2-613 and R18-2-613.01: Agricultural Best Management Practices (AgBMP)

These amendments revise existing AgBMP rules for the Yuma NAA to improve compliance through annual reporting to ADEQ of the BMPs selected and implemented by a commercial farmer and to clarify recordkeeping requirements. The amendments also update the rules to reflect, where appropriate, changes adopted by the AgBMP Committee to the rules for the Maricopa County and West Pinal PM₁₀ NAAs pursuant to A.R.S. § 49-457 and to require track-out clean up. Lastly, the rules include requirements for days where a high PM₁₀ advisory has been issued. The amendments also adopt one of the two contingency measures included in the control strategy. The amended rules provide that on a finding of failure to attain by EPA, commercial farmers subject to the rule will be required to implement two rather than just one BMP for each regulated activity. This change would in any case likely be required to satisfy the BACM requirement, which would go into effect after a finding of nonattainment and reclassification to serious. The two BMP requirements are already in effect in the Maricopa County and West Pinal County PM₁₀ NAAs.

New R18-2-E1301 and R18-2-E1302: Open Areas and Paved and Unpaved Roads

These rules, modeled largely on Maricopa County Rule 310.01, require the stabilization of vacant lots, unpaved parking areas, and other open areas, as well as unpaved roads and shoulders, to reduce wind-blown dust and the generation of dust by vehicle traffic over the areas and roads. Controls for paved roads include periodic street sweeping. All areas subject to these rules are subject to a 20% opacity standard.

R18-2-E1302 contains the substantive requirements of the rule. R18-2-E1301 sets forth the relevant definitions for both R18-2-E1302 and R18-2-E1303.

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New R18-2-E1301 and R18-2-E1303: Construction

New R18-2-E1303 establishes fugitive dust control measures that must be implemented at construction sites in the Yuma NAA and is modeled primarily on Maricopa County Rule 310. The rule imposes a 20 percent opacity limit on the regulated activities, requires prevention as well as clean-up of trackout, and requires stabilization of inactive areas within a site. The rule authorizes ADEQ to issue a general permit covering sites subject to the rule. This rule also adopts one of the two contingency measures included in the control strategy for the NAA. Upon the finding of failure to attain by EPA, owners and operators subject to the rule will be required to secure a general construction permit for road construction projects.

It should be noted that all of the rules include limits on applicability and exemptions. Not all agricultural operations, open areas, roads, or construction sites will be subject to these rules.

New Appendix 16

New Appendix 16 to Title 18, Chapter 2, Article 13 outlines specific test methods to visually determine the opacity of emissions and test for soil stabilization.

Stakeholder Process.

ADEQ led a robust stakeholder engagement process in preparation for this proposal. In May of 2024, ADEQ kicked off this stakeholder process with an in-person workshop in Yuma, Arizona. This workshop introduced potential control measures for the Yuma NAA that would later be incorporated into draft rule language. At this workshop, and during the months following the workshop, ADEQ received feedback from stakeholders for all control measures and draft rule language.

Since February of 2023, ADEQ has conducted monthly meetings with stakeholders, where the Department provided updates on the control strategy, as well as the technical work supporting the strategy and other elements of the required SIP. As noted above, ADEQ considered feedback obtained during these meetings and where appropriate adjusted the underlying technical analysis and draft control measures based on stakeholder input.

RULE SPECIFIC MEETINGS:

Once draft rule language was ready for review, ADEQ scheduled the following stakeholder meetings to explain and receive feedback:

Open Areas and Unpaved Roads, R18-2-E1301 and R18-2-E1302

In July of 2025, ADEQ made drafts of these two rules available to stakeholders. On August 7, 2025, ADEQ hosted its first stakeholder meeting focused on R18-2-E1301 and R18-2-E1302. ADEQ explained the draft rule language, answered stakeholder questions, and accepted feedback on the draft rules. On August 26, 2025, ADEQ hosted a second stakeholder meeting focused on these two rules. At this meeting, ADEQ continued to answer additional stakeholder questions and accept feedback on the draft rule language. ADEQ accepted feedback on this first draft of these two rules until September 19, 2025.

In April of 2026, ADEQ made drafts of these two rules available to stakeholders once again. On April 22, 2026, ADEQ hosted an additional stakeholder meeting focused on the changes made to R18-2-E1301 and R18-2-E1302 in response to stakeholder feedback regarding the feasibility of the control measures. ADEQ accepted feedback on this second draft of these two rules until May 1, 2026.

Construction, R18-2-E1303

In September of 2025, ADEQ made this draft rule language available to stakeholders. On October 6, 2025, ADEQ hosted its first stakeholder meeting focused on R18-2-E1303. At this meeting, ADEQ explained the draft rule language, answered stakeholder questions, and accepted feedback on the draft rule. On October 20, 2025, ADEQ hosted its second stakeholder meeting focused on R18-2-E1303. At this meeting, ADEQ continued to answer additional stakeholder questions and accept feedback on the draft rule language. ADEQ accepted feedback on this first draft of R18-2-E1303 until October 31, 2025.

In March of 2026, ADEQ made a revised draft of R18-2-E1303 available for stakeholder review. This revised draft reflected changes made in response to stakeholder feedback. ADEQ also made a written response to comment document available for stakeholder review. Stakeholders were given until April 9, 2026 to provide additional feedback on this revised draft.

Agriculture, R18-2-613 and R18-2-613.01

In September of 2025, ADEQ made the draft rule language for these two rules available to stakeholders. On October 14, 2025, ADEQ hosted its first stakeholder meeting focused on R18-2-613 and R18-2-613.01. At this meeting, ADEQ explained the draft rule language, and answered stakeholder questions, and accepted feedback on the draft rules. On October 27, 2025, ADEQ hosted its second stakeholder meeting focused on R18-2-613 and R18-2-613.01. At this

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meeting, ADEQ continued to answer additional stakeholder questions and accept feedback on the draft rule language. ADEQ accepted feedback on this first draft of these two rules until November 7, 2025. The stakeholders involved in these particular meetings requested that ADEQ provide a written response to their comments and feedback. ADEQ shared a preliminary draft of our response to comments in December of 2025.

On February 2, 2026, ADEQ made a revised draft of R18-2-613 and R18-2-613.01 available for stakeholder review. These revised rules reflected changes made in response to stakeholder feedback. ADEQ also made a written response to comment document available for stakeholder review. Stakeholders were given until February 19, 2026 to provide additional feedback on the revised rules.

Stakeholder Feedback

The following is a summary of the feedback received by ADEQ during the rule-specific stakeholder process and ADEQ's response. ADEQ's complete responses can be found at <https://azdeq.gov/yuma-pm-10-nonattainment-area>.

R18-2-E1301 and R18-2-E1302

Stakeholder Concern	ADEQ Response
General concerns about the rule.	ADEQ replied to general concerns about the rule by clarifying the intention of the rule and how such a rule would interact with existing state law, federal law, and permitting regimes.
Definitions could be improved for clarity.	Where suggestions were made by stakeholders to increase the clarity of the rule, ADEQ revised the rule language accordingly.
The draft rules should include additional exemptions.	Where consistent with the purpose of the Clean Air Act and these draft rules, ADEQ included additional exemptions in the rule language. Additionally, where blanket exceptions were not appropriate, ADEQ took steps to ensure that the rules were technically feasible for the region. For example, ADEQ received feedback from the Marine Corps Air Station – Yuma that a large part of the Barry M. Goldwater Range (BMGR-West) should be exempt from the rules to protect flat-tailed horned lizard (FTHL) habitat. Though ADEQ declined to exempt the area completely, ADEQ redefined “disturbed surface area” to exclude areas consisting of sand or low-silt content (5% or less) to address the concern that soil stabilization would disrupt key habitat for the FTHL.
The requirement to stabilize open areas may impact residential areas.	The thresholds for this rule were drafted with the intent of exempting residential property wherever possible. These rules provide that the stabilization requirements apply to any open area that contains at least 1,000 total square feet of disturbed surface area and is either greater than 0.1 acres in size, if located within an urban area, or greater than 0.5 acres in size, if located within a rural area.
The requirement to cleanup trackout should target certain unimproved access points.	ADEQ declined to expand the applicability of the rules to address this feedback.
The requirements for paved public roads are largely infeasible for both the cities in the nonattainment area and Yuma County.	During the informal stakeholder process, ADEQ received feedback on draft rule language that set the following requirements: the owner or operator of paved public roads were to sweep the paved roads and paved shoulders (1) at least once every two weeks for roads with weekday average daily trips greater than 5000 and (2) at least once every two months for roads with weekday average daily trips less than or equal to 5000. In response to feasibility concerns raised by stakeholders, ADEQ amended the rule to require the following instead: the owner or operator of paved public roads is required to sweep paved public roads and paved shoulders (1) at least once every two weeks for local roads with weekday average daily trips greater than or equal to 500, and (2) at least once every three months for all other paved public roads. Targeting local roads increases the impact of street sweeping, resulting in 80% fewer centerline miles of road for each public road operator to sweep biweekly, when compared to the previous draft rule language.
The recordkeeping requirement should be amended to make the submittal of records as straightforward as possible.	ADEQ revised the draft rule to make the submittal of records as straightforward as possible.

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R18-2-E1303

Stakeholder Concern	ADEQ Response
General concerns about the economic impact of this rule on the Yuma area.	ADEQ understands stakeholder concerns regarding the economic impact of the rule and is committed to minimizing that impact to the extent it is possible to do so while satisfying Clean Air Act requirements. ADEQ pointed to other jurisdictions that have successfully implemented similar rules.
Definitions and rule requirements could be improved for clarity.	Where suggestions were made by stakeholders to increase the clarity of the rule, ADEQ revised the rule language accordingly.
Rule requirements should be less prescriptive and in line with other construction rules for other jurisdictions.	Where suggestions were made by stakeholders to make aspects of the rule more consistent with other jurisdictions, particularly Maricopa County, ADEQ revised the rule language accordingly.
It is unclear how the construction general permit program will impact individual source permits.	ADEQ explained the purposes of both individual stationary source permits and the construction general permit. ADEQ explained to stakeholders that both permitting programs are essential.
Exemptions to the rule should be expanded and refined.	Where consistent with the purpose of the Clean Air Act and these draft rules, ADEQ amended the exemptions in the rule language for clarity and feasibility purposes.
The requirements under this rule mirror what is required for Stormwater Pollution Prevention Plans (SWPPPs). ADEQ should align the requirements of this rule with those required for SWPPPs to avoid multiple requirements regulating the same dust-generating activities.	ADEQ reviewed the SWPPP requirements with the appropriate internal staff and found little overlap between the programs outside of signage requirements. ADEQ has updated the signage requirements in the rule language to align with an already-existing Yuma County ordinance, as requested by stakeholders, that should be easy to reconcile with SWPPP requirements.
Cessation of activity on a construction site should be the last resort.	ADEQ has designed the current rule to only require the cessation of dust-generating operations on a construction site in two circumstances, as outlined in R18-2-E1303(G) and R18-2-E1303(D)(1)(b), with R18-2-E1303(G)(1) generally providing sufficient flexibility to avoid cessation.
Some stabilization methods are infeasible.	ADEQ has incorporated additional stabilization method options into the draft rule language per stakeholder request wherever consistent with Clean Air Act requirements.
Owners and operators should be free to use whatever methods they wish for purposes of self-monitoring and compliance assurance.	ADEQ agrees with this and clarified that the methods specified in the rule are the official methods for determining compliance with the rule requirements to be used by inspectors. Owners and operators are free to use these methods or other methods for purposes of self-monitoring and compliance assurance.

R18-2-613 and R18-2613.01

Stakeholder Concern	ADEQ Response
Definitions could be improved for clarity.	Where suggestions were made by stakeholders to increase the clarity of the rule, ADEQ revised the rule language accordingly.
Areas of the rule language could also be revised for clarity.	Where suggestions were made by stakeholders to increase the clarity of the rule, ADEQ revised the rule language accordingly.
Several requirements appear to be more severe than what should be required in a Moderate PM10 nonattainment area.	ADEQ emphasized that the controls being proposed are those that result in an attainment demonstration for the area.
Certain thresholds for particular control measures are not feasible.	ADEQ asked stakeholders for additional information supporting the infeasibility of particular thresholds used in the rule. Where additional, supporting information was provided, ADEQ made changes to the thresholds accordingly.
The rule language is not clear as to what happens when farmers select multiple BMPs that they may use for different crops during the season.	ADEQ provided stakeholders clarification on this point.
The name of the form submitted for recordkeeping purposes should be revised.	ADEQ amended the name of the form for recordkeeping purposes.
The rule language is not clear as to what a farmer has to do if he is not participating in one or more of the listed activities in the rule.	ADEQ provided stakeholders clarification on this point.
The trackout provision is unnecessary.	ADEQ declined to remove the trackout provision from the rule.

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Yuma farmers should not be required to submit their form to ADEQ. If this is to be a requirement, it should only be included in the rule as a contingency measure.	ADEQ does not believe that it will be able to adequately ensure compliance with this program without having the AgBMP forms submitted to the agency in some capacity. However, ADEQ has established a reporting regime that will allow commercial farmers to submit their forms to the Arizona Department of Agriculture, who will then transfer the relevant information to ADEQ. This reporting regime is the compromise that was requested by stakeholders.
As growers are already required to submit their grower permits to the Arizona Department of Agriculture by December 31, BMP forms should be submitted at the same time to simplify the process.	ADEQ has accepted this suggestion and mirrored the rule language for the West Pinal PM ₁₀ Nonattainment Area with similar provisions.

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:

Arizona Department of Environmental Quality. (2026). "Appendix C to the 2027 State Implementation Plan for the Yuma Moderate Nonattainment Area for PM-10: Attainment Demonstration Technical Support Document."

All documents are available for the public to review, Monday through Friday, 8:30 a.m. – 4:30 p.m., at the ADEQ Records Center located at:

1110 W. Washington St.

Phoenix, AZ 85007

For more information, contact the Records Center at (602)771-4380 or at recordscenter@azdeq.gov.

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 following discussion addresses each of the elements required for an Economic, Small Business, and Consumer Impact Statement (EIS) under A.R.S. § 41-1055. ADEQ welcomes stakeholder feedback on this preliminary summary of the economic, small business, and consumer impact report. Additionally, ADEQ has made the actual Economic, Small Business, and Consumer Impact Statement available in full at <https://azdeq.gov/yuma-pm-10-nonattainment-area>.

An identification of the rulemaking: 18 A.A.C. 2, Article 6, R18-2-613 and R18-2-613.01; 18 A.A.C. 2, Article 13, R18-2-E1301, R18-2-E1302, R18-2-E1303; 18 A.A.C. 2 Appendix 16

ADEQ is amending A.A.C. Title 18, Chapter 2, Article 6 (Emissions from Existing and New Nonpoint Sources) and Article 13 (State Implementation Rules for Specific Locations) to regulate sources that emit significant amounts of PM₁₀ in the Yuma moderate nonattainment area. This rulemaking is necessary to develop an approvable moderate state implementation plan for the Yuma PM₁₀ NAA. Doing so will prevent the Yuma NAA from being reclassified to serious nonattainment status and improve air quality to protect public health.

An identification of the persons who will be directly affected by, bear the cost of or directly benefit from the rulemaking:

- a) Federal government;
- b) Tribal government;
- c) State government;
- d) Local government;
- e) Construction industry in Yuma, AZ;
- f) Private landowners;
- g) Agriculture industry in Yuma, AZ;
- h) Arizona residents; and
- i) Public interest groups.

A cost benefit analysis:

(a) Cost/benefit stakeholder matrix

The purpose of this rulemaking is to facilitate EPA approval of the Yuma Moderate PM₁₀ SIP. Costs and benefits are

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summarized in the table below.

Description of Affected Groups	Description of Effect	Increased Cost/Decreased Revenue or Benefit	Decreased Cost/Increased Revenue or Benefit	
A. Federal, State, and Local Government Agencies				
ADEQ	ADEQ will be responsible for the administration and enforcement of rules; management of permits; and inspections.	Substantial.	Significant.	
Other state agencies	Other state agencies will coordinate dust control and stabilization on state lands and roads.	Substantial.	Significant.	
Local governments	Local governments will be responsible for roads in their jurisdiction, trackout cleanup, and land management.	Substantial.	Significant.	
Federal government	The federal government oversees federal land subject to the open area rules and oversees the State Implementation Plan.	Substantial.	Significant.	
Tribal government	Not applicable.	Marginal. State regulations do not apply to sovereign land, resulting in no direct compliance or reporting obligations.	Significant.	
B. Private Businesses				
Agriculture industry	Commercial farmers will be responsible for recordkeeping, trackout cleanup, implementing best management practices (BMPs), and procedures for High Pollution Advisory (HPA) days.	Minimal per farm but substantial in the aggregate. Additionally, expenses are likely minimal per year but substantial over a long-term period	Significant.	
Construction industry	Owners and operators in this industry will be responsible for acquiring permits; submitting dust control plans; and installing trackout devices.	Substantial.	Significant.	
Private landowners	Private landowners will be responsible for stabilization of disturbed open areas and unpaved parking.	Substantial for large and active lots and moderate for small lots.	Significant.	
C. Public				
Residents	Residents are affected by local ambient air quality.	Marginal.	Significant.	
Public interest groups	Public interest and special interest groups are often interested in local ambient air quality.	Marginal.	Significant.	
Minimal	Moderate	Substantial	Significant	Marginal
\$5,000 or less	\$5,001 to \$25,000	Greater than \$25,000	Cost or benefit cannot be easily quantified, but ADEQ expects it to be significant.	Cost or benefit cannot be easily quantified, but ADEQ expects it to be marginal.

(b) Individual stakeholder summaries/calculations

ADEQ

ADEQ faces moderate to significant administrative costs to enforce the proposed rules, primarily driven by the need to hire dedicated personnel. The agency will also need to absorb ongoing operational expenses for IT support and a web-based permitting interface, along with additional enforcement costs if the roadway construction contingency measure is triggered. However, developing and submitting an approvable SIP benefits ADEQ by preventing the Yuma NAA from being reclassified as a "Serious" nonattainment area. Under a "Serious" classification, ADEQ would be legally required to draft, implement, and enforcement a more stringent regulatory plan. Additionally, submitting these rules into the SIP allows ADEQ to fulfill its core mission of protecting public health and the environment.

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Other state agencies

Other state agencies, including Arizona Department of Transportation (ADOT) and the State Land Department, face costs associated with the stabilization of state-managed unpaved roads and shoulders, and trespass prevention measures on vacant lands. For ADOT, the stabilization of unpaved shoulders represents a substantial cost. For the State Land Department, the stabilization of open areas represents the largest cost. The Arizona Department of Agriculture (AZDA) will not face direct compliance costs. However, all three agencies directly benefit from the rulemaking, because compiling an EPA-approvable SIP for the moderate nonattainment area will prevent the imposition of more stringent, and likely more expensive, controls, were the area to be reclassified as serious nonattainment. SIP approval will similarly prevent the loss of federal highway funding due to sanctions.

Federal government

Federal agencies oversee substantial tracts of land and coordinate critical transportation and military operations within the Yuma NAA. Federal land managers are anticipated to face substantial compliance costs, similar to those outlined for other state agencies. These federal land managers will benefit from the implementation of these rules as an approvable moderate SIP will prevent the imposition of more stringent, and likely, more expensive, controls, were the area to be reclassified as serious nonattainment.

Tribal government

State regulations do not apply to sovereign nations. However, nearby tribes will benefit greatly from the regulation of particulate pollution due to improved regional air quality.

Local governments

Local governments face substantial costs associated with equipment purchases and infrastructure requirements. Routine road maintenance necessitates substantial upfront investments in PM₁₀-certified street sweepers alongside recurring annual maintenance. Though substantial compliance costs associated with street sweeping are expected, ADEQ optimized the street sweeping obligations based on stakeholder feedback. Additionally, the prohibition on unpaved roads will require local governments to invest in creating paved roads. Local governments will also absorb the ongoing costs of stabilizing unpaved traffic areas and open areas. However, local governments benefit significantly from this rulemaking because submitting an approvable SIP to EPA will prevent the Yuma NAA from being reclassified. Reclassification would legally compel local governments to adopt far more expensive and aggressive public works control measures under the best available control technology (BACM) framework. SIP approval will also prevent the loss of federal highway funding due to sanctions.

Agricultural industry

While individual compliance costs remain low for individual commercial farmers, expenses build up across operations over time and when considered in the aggregate. Routine expenses stem from ongoing recordkeeping, implementing BMPs, and trackout removal. Though substantial compliance costs associated with reporting, recordkeeping, and monitoring are expected, ADEQ drafted the obligations based on stakeholder feedback. These costs could escalate significantly if the region fails to meet attainment targets, as contingency measures would therefore go into effect. These contingency measures would introduce broader, highly variable costs depending largely on farm size, crop type, and the specific operational adjustments required. However, avoiding reclassification to serious will benefit Yuma's agricultural community. Under a serious classification, agriculture operations would need to comply with BACM, thereby eliminating the current flexibilities built into the current rules.

Construction industry

There are substantial costs associated with mitigating fugitive dust and trackout from active construction sites. The costs associated with obtaining general air permits and preparing dust control plans will vary by size of site. Cessation of operations due to high wind is a substantial cost driver, risking project delays that range from \$2,000 to \$10,000 per event for small-to-midsize projects and \$10,000 to \$50,000 per day for large-scale operations, though proactive water suppression and use of chemical stabilizers may prevent the need for cessation. Trackout control devices also contribute to costs borne by the construction industry. However, avoiding a serious reclassification protects construction companies from having to comply with more stringent requirements.

Private landowners

Private landowners, particularly those who own large vacant lots or unpaved parking lots, face substantial direct compliance costs. The largest expense is associated with stabilization treatments and maintenance. However, the implementation of these rules protects private landowners from the more aggressive and costly stabilization mandates that would be imposed in a serious nonattainment area.

Residents

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The residents of the Yuma NAA and surrounding area face marginal costs under the proposed rule. There is minimal risk of indirect cost pass-throughs as well. Residents do, however, receive substantial public health benefits from the implementation of these control measures. Furthermore, implementing these control measures, and therefore preventing a serious reclassification protects the local economy. A serious area reclassification would be accompanied by BACM level control measures that could discourage new businesses, suppress job growth, and increase consumer costs for housing and services as local industries absorb the expense of more stringent controls.

Public interest groups

For public interest and special interest groups, compliance costs are marginal. However, these groups directly benefit from the implementation of these rules because codifying control measures into state code creates a legally enforceable framework to lower ambient particulate matter concentrations in the Yuma area.

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

This rulemaking is not expected to have a material effect on private or public employment within the Yuma NAA.

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

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

Under A.R.S. § 41-1001(23) "Small business" means 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. For purposes of a specific rule, an agency may define small businesses to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations. Using this definition, approximately 84 percent of Yuma County's businesses qualify as small enterprises, accounting for approximately one-third of all local employment.

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

Annual costs for small businesses vary by sector based on activity frequency and permit requirements. Across these industries, overall compliance costs represent a relatively minimal share of estimated gross revenues.

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

ADEQ has implemented a series of program features to limit financial impact on small entities. Simplified online reporting and standardized BMP templates reduce staff time for documentation. Low-cost training helps smaller contractors and farm operators meet requirements without the added overhead.

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

Residents and consumers face marginal costs, and the risk of experiencing indirect compliance costs passed down by local businesses is minimal. Instead, residents stand as the primary beneficiaries of the regulations given that a reduction in particulate matter pollution may decrease illnesses associated with air pollution exposure. In contrast, private persons who own vacant lots or unpaved parking lots will face significant compliance costs. Despite these costs, these measures may directly benefit private property owners by preventing soil erosion and protecting property values. Additionally, the implementation of these control measures will prevent the imposition of BACM-level control measures that would be required under a reclassification of the area to serious.

A statement of the probable effect on state revenues

The proposed rules may affect state revenues through permit fees, application fees, or other charges associated with the construction general permit program and related to program administration. ADEQ may incur costs associated with administering and enforcing the requirements outlined in the rule, as discussed in the cost-benefit summaries. Permit fees and other charges may offset a portion of those costs. The overall state revenue effect is expected to depend on program implementation.

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

These proposed rules are the least burdensome approach to achieving federal CAA and SIP requirements for PM₁₀ in Yuma. The minimal new requirements, such as improved recordkeeping, BMPs, and test method clarifications, leverage existing processes and offer phased timelines. Alternatives considered were either less effective or more costly. Adoption of this rule minimizes operational, administrative, and economic burdens while public health benefits through continued federal partnership and regulatory certainty.

A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable has the burden of prov-

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ing that data is acceptable. For the purposes of this paragraph “acceptable data” means empirical, replicable, and testable data as evidenced in supporting documentation, statistics, reports, studies or research.

This preliminary economic impact statement relies on four empirically rigorous datasets that meet strict standards for validity, replicability, and testability. First, daily concentration levels and exceedance counts from the EPA Air Quality System (AQS) (2021-2025) establish the air quality baseline for the area. Second, the U.S. Census Bureau's American Community Survey (ACS) 5-Year Estimates, mapped through shapefiles, accurately define the impacted local population through standardized survey methods. Third, the U.S. Census Bureau, Bureau of Labor Statistics, data provides the official wage rates needed to calculate compliance and labor costs. Finally, historical public works contracts from neighboring southwestern nonattainment areas provide realistic benchmarks based on proven emission-control technologies.

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

Name: Scott Reed
Title: Senior Economist
Division: Director's Office
Address: 1110 W. Washington St, #160
Phoenix, AZ 85007
Telephone: (602) 771-6060
Email: reed.scott@azdeq.gov
Website: <https://azdeq.gov>

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:

A formal comment period will take place from the publication of this rule in the *Arizona Administrative Register* until Monday, November 9, 2026.

Please email or submit written comments related to this rulemaking at any time during the public comment period to the contact in item 5 of the Preamble of this Notice.

ADEQ has scheduled an oral proceeding to receive oral comments on the rules, in accordance with A.R.S § 41-1023; the time, place, and location of the hearing are listed below:

Date: Monday, November 9, 2026
Time: 11:00 a.m.
Location: Main Yuma Library
2951 S. 21st Dr.,
Yuma, AZ 85364

ADEQ will take reasonable measures to provide access to department services to individuals with limited ability to speak, write or understand English and/or to those with disabilities. Requests for language translation, ASL interpretation, CART captioning services or disability accommodations must be made at least 48 hours in advance by contacting the Title VI Nondiscrimination Coordinator, Joaquin Marruffo Ruiz, at 520-628-6744 or Marruffo.Joaquin@azdeq.gov. For a TTY or other device, Telecommunications Relay Services are available by calling 711.

ADEQ tomará las medidas razonables para proveer acceso a los servicios del departamento a personas con capacidad limitada para hablar, escribir o entender inglés y/o para personas con discapacidades. Las solicitudes de servicios de traducción de idiomas, interpretación ASL (lengua de signos americano), subtítulo de CART, o adaptaciones por discapacidad deben realizarse con al menos 48 horas de anticipación comunicándose con el Coordinador de Anti-Discriminación del Título VI, Joaquin Marruffo Ruiz, al 520-628-6744 o Marruffo.Joaquin@azdeq.gov. Para un TTY u otro dispositivo, los servicios de retransmisión de telecomunicaciones están disponible llamando al 711.

Nature: Oral Proceeding on the proposed rules, with opportunity for formal comments on the record.

Public comment period ends: November 9, 2026

Close of record: November 9, 2026

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

A construction general permit will be established in a future rulemaking pursuant to R18-2-503. This rulemaking directly supports ADEQ's compliance with the federal Clean Air Act.

- 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:**

Under Rule R18-2-E1303, if ADEQ has issued a construction general permit applicable to construction activities occurring within the Yuma PM₁₀ nonattainment area, no person shall operate or engage in any dust-generating operations at a construction site subject to the rule unless the authority to operate has been granted under the construction general permit pursuant to R18-2-503. ADEQ received the Arizona Governor's approval of a rulemaking to establish such a construction general permit on June 6, 2025.

- 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 proposed rulemaking will help Arizona comply with the federal Clean Air Act. This rulemaking is no more stringent than required by 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:**

Not applicable

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

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

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR POLLUTION CONTROL**

ARTICLE 6. EMISSIONS FROM EXISTING AND NEW NONPOINT SOURCES

Section

R18-2-613. Definitions for R18-2-613.01

R18-2-613.01. Yuma PM₁₀ Nonattainment Area; Agricultural Best Management Practices

ARTICLE 13. STATE IMPLEMENTATION PLAN RULES FOR SPECIFIC LOCATIONS

PART E. YUMA PM₁₀ NONATTAINMENT AREA

Section

R18-2-E1301. Definitions

R18-2-E1302. Controls for Fugitive Dust – Dust-Generating Sites

R18-2-E1303. Controls for Fugitive Dust – Dust-Generating Operations at Construction Sites

A16. Appendix 16. Fugitive Dust Test Methods

ARTICLE 6. EMISSIONS FROM EXISTING AND NEW NONPOINT SOURCES

R18-2-613. Definitions for R18-2-613.01

1. "Access restriction" means reducing the number of trips driven on agricultural aprons and access roads by restricting or eliminating public access to noncropland or commercial farm roads restricting or eliminating public access to noncropland with signs or physical obstruction at locations that effectively control access to the area.
2. "Aggregate cover" means stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material applied to noncropland or commercial farm roads.
3. "Artificial wind barrier" means a physical barrier to the wind.
4. "Bed row spacing" means increasing or decreasing the size of a planting bed area to reduce the number of passes and soil disturbance by increasing plant density reducing a minimum of one tillage operation by increasing or decreasing the size of the planting bed area or adjusting spacing.
5. "Best management practice" or "BMP" means a technique verified by scientific research, that on a case-by-case basis is practical, economically feasible, and effective in reducing PM₁₀ emissions from a regulated agricultural activity.
5. "BMP selection form" means the form provided by the Director to report the selection of best management practices and certify compliance with R18-2-613.01.
6. "Cessation of night tilling" means the discontinuation of tillage operations from sunset on the day preceding a Yuma PM₁₀ advisory day to sunrise on a Yuma PM₁₀ advisory day.

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67. “Chemical irrigation” means reducing a minimum of one ground operation during each growing period across a commercial farm by applying a fertilizer, pesticide, or other agricultural chemical to cropland through an irrigation system.
78. “Combining tractor operations” means reducing a minimum of one tillage or ground operation across a commercial farm by using a tractor, implement, harvester, or other farming support vehicle to perform two or more tillage, cultivation, planting, or harvesting operations at the same time, performing two or more tillage, cultivation, planting, or harvesting operations with a single tractor or harvester pass.
89. “Commercial farm” means 40 40 or more contiguous acres of land used for agricultural purposes within the boundary of the Yuma PM₁₀ nonattainment area.
10. “Commercial farm road” means a road that is unpaved, owned by a commercial farmer, and is used exclusively to service a commercial farm.
911. “Commercial farmer” means an individual, entity, or joint operation in general control of a commercial farm.
- ~~1012.~~ “Conservation irrigation” means the use of drips, sprinklers, or underground lines to conserve water, and to reduce the weed population, the need for tillage, and soil compaction reducing a minimum of one tillage operation related to weeding by conserving the amount of water used by either drip, sprinkler, or underground line irrigation.
- ~~1113.~~ “Conservation tillage” means types of tillage that reduce the number of passes and the amount of soil disturbance a practice that leaves at least 30 percent of the previous crop’s residue on the field after planting. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
- ~~1214.~~ “Cover crop” means establishing vegetation that maintains a minimum of 60 percent ground cover. Native or volunteer vegetation that meets the minimum ground cover requirement is acceptable. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions) plants or a green manure crop grown for seasonal soil protection or soil improvement.
- ~~1315.~~ “Critical area planting” means planting using trees, shrubs, vines, grasses, or other vegetative cover on noncropland in order to maintain at least 60 percent ground cover. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
16. “Crop year” means the 12 month period beginning April 1 and ending March 31.
- ~~1417.~~ “Cropland” means land on a commercial farm that:
- a. ~~Is within the time frame of final harvest to plant emergence~~ Is or will be used during the current crop year for crop production and is not undergoing tillage or ground operations;
 - b. ~~Has been tilled in a prior year and is suitable for crop production, but is currently fallow or idle, and is suitable for crop production or will be after the fallow or idle period; or~~
 - c. ~~Is a turn-row.~~
- ~~1518.~~ “Cross-wind ridges” means creating soil ridges on a commercial farm by tillage or planting operations. Ridges should be at least four inches in height, and be aligned as perpendicular as possible to the prevailing wind direction soil ridges formed by a tillage operation.
- ~~1619.~~ “Cross-wind strip-cropping” means planting strips of alternating crops within the same field.
- ~~17.~~ “Cross-wind vegetative strips” means herbaceous cover established in one or more strips within the same field.
- ~~1820.~~ “Equipment modification” means reducing particulate matter emissions and soil erosion during tillage or ground operations by modifying and maintaining an existing piece of agricultural equipment, installing shielding equipment, modifying land planting and land leveling practices, matching the equipment to row spacing, or grafting to new varieties or technological improvements, to prevent or reduce particulate matter generation from cropland.
21. “Green chop” means reducing a minimum of one ground operation across a commercial farm by harvesting a forage crop grown for consumption by any domestic animal without allowing it to dry in the field.
22. “Ground operation” means an agricultural operation that is not a tillage operation and which involves equipment passing across the field. A ground operation includes harvest activities. A vehicle passing through the field is a subset of a ground operation.
23. “Hand harvesting” means reducing soil disturbance due to machinery passes by harvesting a crop by hand.
24. “Harvest” means gathering mature crops from a commercial farm, as well as all actions taken immediately after crop removal such as cooling, sorting, cleaning, and packing.
25. “Integrated Pest Management” means eliminating a minimum of one ground operation across a commercial farm for spraying by using a combination of techniques including organic, conventional, and biological farming practices to suppress pest problems.
49. “Limited activity during a high-wind event” means performing no tillage or soil preparation activity when the measured wind speed at 6 feet in height is more than 25 mph at the commercial farm site.
20. “Manure application” means applying animal waste or biosolids to a soil surface.
- ~~2126.~~ “Mulching” means applying plant residue or other material that is not produced onsite to a soil surface.
- ~~2227.~~ “Multi-year crop” means reducing a minimum of one tillage and one ground operation across a commercial farm, by protecting the soil surface by growing a crop, pasture, or orchard that is grown, or will be grown, on a continuous basis for more than one year.
- ~~2328.~~ “Night farming” means performing regulated agricultural activities at night when moisture levels are higher and winds are lighter.
29. “NRCS” means the Natural Resource Conservation Service.
- ~~2430.~~ “Noncropland” means any commercial farmland that:
- a. ~~Is no longer used for agricultural production;~~
 - b. ~~Is no longer suitable for production of crops;~~
 - e. ~~Is subject to a restrictive easement or contract that prohibits use for the production of crops; or~~

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- d. Includes a private farm road, ditch, ditch bank, equipment yard, storage yard, or well head land on a commercial farm that does not qualify as cropland.
31. “Organic material cover” means applying and maintaining cover material such as animal waste or plant residue, to a soil surface to reduce soil movement. Material shall be evenly applied and maintained to a depth sufficient to reduce particulate matter emissions and coverage should be a minimum of 70 percent. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
32. “Other Road Stabilization” means stabilizing an unpaved road through a method other than watering.
2533. “Permanent cover” means maintaining a long-term a perennial vegetative cover on cropland that is temporarily not producing a crop. Perennial species such as grasses and/or legumes shall be used to establish at least 60 percent cover. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
2634. “Planting based on soil moisture” means reducing particulate matter emissions and wind erosion by applying water or having enough moisture in the soil to germinate the seed prior to planting to soil before performing planting operations. Soil must have a minimum soil moisture content of 50 to 75 percent of available water capacity at planting depth. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions).
2735. “Precision farming” means reducing the number of passes across a commercial farm by reducing the overlap between adjacent passes by at least 12 inches by using the Global Positioning System (GPS) or other technological means to precisely guide farm equipment in the field, use of satellite navigation to calculate position in the field, to reduce overlap during field operations, and allow operations to occur during nighttime and inclement weather, thus generating less PM₁₀.
36. “Pre-harvest soil preparation” means applying water or stabilizing material to soil prior to harvest to form a visible crust as determined by the Drop Ball Test Method provided in Appendix 16.
2837. “Reduce vehicle speed” means operating farm vehicles or farm equipment on unpaved farm roads at speeds not to exceed 20 mph limiting the travel speed of all authorized vehicles and equipment on noncropland and commercial farm roads to speeds not to exceed 15 mph. This can be achieved through installation of engine speed governors, signage, or speed control devices.
2938. “Reduced harvest activity” means reducing the number of mechanical harvest passes by a minimum of one ground operation across each applicable area of a commercial farm that would otherwise be required, by means other than equipment modification or combining tractor operations, the number of harvest passes using a mechanized method to cut and remove crops from a field.
39. “Reduced tillage system” means using a single piece of equipment that reduces a minimum of three tillage operations, by means other than equipment modification or combining tractor operations.
3040. “Regulated agricultural activity” means a commercial farming practice practices at a commercial farm related to commercial production of crops, including associated preparation or maintenance activities, that are capable of producing fugitive PM₁₀ emissions or disturbing soil such that PM₁₀ emissions are more likely within the Yuma PM₁₀ Nonattainment Area, that may produce PM₁₀ within the Yuma PM₁₀ nonattainment area.
3141. “Residue management” means maintaining a minimum of 30 percent ground cover of crop and other plant residue on a soil surface between the time of harvest of one crop and the commencement of tillage operations for a new crop. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions), managing the amount and distribution of crop and other plant residues on a soil surface.
3242. “Sequential cropping” means growing crops in a sequence or close rotation that limits minimizes the amount of time bare soil is exposed on a field commercial farm to 30 days or less.
43. “Shuttle system/larger carrier” means reducing a minimum of one pass through the field per acre by hauling multiple or larger trailers or bins per trip.
44. “Significant agricultural earth moving activities” means either ground leveling activities conducted on a commercial farm that disturb the soil more than four inches below the surface, or the creation and relocation of: ditches, canals, ponds, irrigation lines, tailwater recovery systems (agricultural sumps) and other water conveyances, not to include activities performed on cropland for tillage or ground operations or harvest.
45. “Stabilized soil surface” means any disturbed surface area or open bulk material storage pile that is resistant to windblown fugitive dust emissions. A surface is considered to be stabilized if it meets at least one of the following conditions specified in this section and as determined by test methods specified in Appendix 16 of this rule:
- a. A visible crust;
 - b. A threshold friction velocity corrected for non-erodible elements of 100 centimeters per second or greater;
 - c. A flat vegetative cover of at least 50 percent that is attached or rooted vegetation; or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind;
 - d. A standing vegetative cover of at least 30 percent that is attached or rooted vegetation with a predominant vertical orientation;
 - e. A standing vegetative cover that is attached or rooted vegetation with a predominant vertical orientation that is at least 10 percent and where the threshold friction velocity is at least 43 centimeters per second when corrected for non-erodible elements; or
 - f. A surface that is greater than or equal to 10 percent of non-erodible elements such as rocks, stones, or hard-packed clumps of soil.
46. “Stabilization of soil prior to plant emergence” means applying water to soil prior to crop emergence in order to cause the soil to form a visible crust as determined by the Drop Ball Test Method provided in Appendix 16.

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3347. "Surface roughening" means manipulating a soil surface to produce or maintain clods by means such as rough discing or tillage operations in order to produce or maintain clods on the land surface. Compliance shall be determined by NRCS Practice Code 609, Surface Roughening, amended through September 2014 (and no future editions).
3448. "Synthetic particulate suppressant" means maintaining a surface that is resistant to producing fugitive dust emissions on non-cropland or commercial farm roads through the application of a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, polyacrylamide, an emulsion of a petroleum product, and/or an enzyme product that is used to control particulate matter. Users of this best management practice shall follow the product manufacturer's published recommendations with respect to the amount, method, circumstances, and frequency of application.
3549. "Tillage and harvest operation" means any mechanical practice that physically disturbs cropland or crops on a commercial farm an agricultural operation that mechanically manipulates the soil for the enhancement of crop production.
3650. "Tillage based on soil moisture" means irrigating fields to the depths of the proposed cut prior to soil disturbances or conducting tillage operations to coincide with precipitation. Soil must have a minimum soil moisture content of 25 to 50 percent of available water capacity as determined by the NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions), applying water to soil before or during tillage, or delaying tillage to coincide with precipitation.
3751. "Timing of a tillage operation" means performing tillage operations at a time that will minimize the amount of time between tillage operations and planting to as little time as possible but no more than seven days, soil's susceptibility to generate PM₁₀.
52. "Trackout" means any and all bulk materials that adhere to and agglomerate on the surfaces of motor vehicles, haul trucks, and/or equipment (including tires) and that have fallen or been deposited onto an area accessible to the public.
3853. "Transgenic crops" means reducing a minimum of one tillage or ground operation relative to the number of operations needed to cultivate a conventional crop by using plants that are the use of genetically modified, crops such as "herbicide ready" crops, which reduces the need for tillage or cultivation operations, and reduces soil disturbance.
39. "Track-out control system" means a device to remove mud or soil from a vehicle before the vehicle enters a paved public road.
54. "Transplanting" means reducing a minimum of one ground operation across a commercial farm and minimizing soil disturbance by utilizing plants already in a growth state as compared to seeding.
40. "Tree, shrub, or windbreak planting" means providing a woody vegetative barrier to the wind.
4155. "Watering" means applying water to noncropland or commercial farm road bare soil surfaces during periods of high traffic until the surfaces are visibly moist.
56. "Wind barrier" means constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular to or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50 percent and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Windbreak/Shelterbelt Establishment, amended through July 2021 (and no future editions).
57. "Yuma PM₁₀ advisory day" means a day for which ADEQ has given notice to the public that PM₁₀ concentrations are expected to exceed the national ambient air quality standard for PM₁₀ in the Yuma PM₁₀ nonattainment area.
4258. "Yuma PM₁₀ nonattainment area" means the Yuma PM₁₀ planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.

R18-2-613.01. Yuma PM₁₀ Nonattainment Area; Agricultural Best Management Practices

- A.** A commercial farmer shall comply with this Section by August 1, 2005.
- B.** A commercial farmer who begins a regulated agricultural activity after August 1, 2005, shall comply with this Section within 60 days after beginning the regulated agricultural activity.
- C.** A commercial farmer shall implement at least one of the best management practices from each of the following categories at each commercial farm:
1. Tillage and harvest, subsection (E);
 2. Noncropland, subsection (F); and
 3. Cropland, subsection (G).
- D.** A commercial farmer shall ensure that the implementation of each selected best management practice does not violate any other local, state, or federal law.
- E.** A commercial farmer shall implement at least one of the following best management practices to reduce PM₁₀ emissions from tillage and harvest:
1. Bed row spacing;
 2. Chemical irrigation;
 3. Combining tractor operations;
 4. Conservation irrigation;
 5. Conservation tillage;
 6. Equipment modification;
 7. Limited activity during a high-wind event;
 8. Multi-year crop;
 9. Night farming;
 10. Planting based on soil moisture;
 11. Precision farming;
 12. Reduced harvest activity;
 13. Tillage based on soil moisture;

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14. Timing of a tillage operation; or
 15. Transgenic crops.
- F.** A commercial farmer shall implement at least one of the following best management practices to reduce PM₁₀ emissions from non-cropland:
1. Access restriction;
 2. Aggregate cover;
 3. Artificial wind barrier;
 4. Critical area planting;
 5. Manure application;
 6. Reduce vehicle speed;
 7. Synthetic particulate suppressant;
 8. Track-out control system;
 9. Tree, shrub, or windbreak planting; or
 10. Watering.
- G.** A commercial farmer shall implement at least one of the following best management practices to reduce PM₁₀ emissions from cropland:
1. Artificial wind barrier;
 2. Cover crop;
 3. Cross-wind ridges;
 4. Cross-wind strip cropping;
 5. Cross-wind vegetative strips;
 6. Manure application;
 7. Mulching;
 8. Multi-year crop;
 9. Permanent cover;
 10. Planting based on soil moisture;
 11. Precision farming;
 12. Residue management;
 13. Sequential cropping;
 14. Surface roughening; or
 15. Tree, shrub, or windbreak planting.
- H.** A person may develop different practices not contained in subsections (E), (F), or (G) that reduce PM₁₀. A person may submit practices that are proven effective through demonstration trials to the Director. The Director shall review the submitted practices.
- I.** A commercial farmer shall maintain records demonstrating compliance with this Section. The commercial farmer shall provide the records to the Director within two business days of written notice to the commercial farmer. The records shall contain:
1. The name of the commercial farmer;
 2. The mailing address or physical location of the commercial farm; and
 3. The best management practices selected for tillage and harvest, noncropland, and cropland by the commercial farmer, and the date each best management practice was implemented.
- A.** A commercial farmer shall comply with this Section immediately upon beginning regulated agricultural activity at a commercial farm.
- B.** A commercial farmer shall select and implement one of the best management practices identified in subsections (D)(1)(a), (D)(2)(a), (D)(3)(a) and (D)(4)(a) during all periods when and in all areas where the relevant regulated agricultural activity is occurring, unless the requirement in subsection (J) to implement two best management practices as a contingency measure has been activated. Different best management practices may be implemented at different times and for different areas or crops.
- C.** A commercial farmer shall implement one of the best management practices identified in subsections (D)(1)(b), (D)(2)(b), (D)(3)(b) and (D)(4)(b) for any regulated agricultural activity that will occur on a Yuma PM₁₀ advisory day and, unless otherwise specified in subsection (D), on the day before. If there are more than two consecutive Yuma PM₁₀ advisory days, and a commercial farmer has implemented the requirements in subsections (D)(1)(b), (D)(2)(b), (D)(3)(b) and (D)(4)(b) for the first two days, the commercial farmer is exempt from the requirements in subsections (D)(1)(b), (D)(2)(b), (D)(3)(b) and (D)(4)(b) for a period of one day.
- D.** Best management practices for tillage operations; ground operations and harvest; noncropland and commercial farm roads; and cropland.
1. Tillage operations.
 - a. At least one of the following best management practices shall be implemented whenever and wherever a tillage operation is occurring:
 - i. Bed row spacing;
 - ii. Combining tractor operations;
 - iii. Conservation tillage;
 - iv. Equipment modification;
 - v. Multi-year crop;
 - vi. Night farming;
 - vii. Planting based on soil moisture;
 - viii. Precision farming;
 - ix. Reduced tillage system;

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- x. Tillage based on soil moisture;
 - xi. Timing of a tillage operation;
 - xii. Transgenic crops; or
 - xiii. Transplanting.
 - b. At least one of the following best management practices shall be implemented on a Yuma PM₁₀ advisory day and, unless otherwise specified, the day before:
 - i. Cessation of night tilling;
 - ii. Conservation tillage;
 - iii. Multi-year crop;
 - iv. Planting based on soil moisture;
 - v. Reduced tillage system (required only on, not before, a Yuma PM₁₀ advisory day); or
 - vi. Tillage based on soil moisture.
2. Ground operations and harvest.
- a. At least one of the following best management practices shall be implemented whenever and wherever ground operations or harvest is occurring:
 - i. Chemical irrigation;
 - ii. Combining tractor operations;
 - iii. Equipment modification;
 - iv. Green chop;
 - v. Integrated pest management;
 - vi. Multi-year crop;
 - vii. Night farming;
 - viii. Precision farming;
 - ix. Reduced harvest activity;
 - x. Transgenic crops; or
 - xi. Shuttle system/larger carrier that transports farm workers with fewer vehicle trips.
 - b. At least one of the following best management practices shall be implemented on a Yuma PM₁₀ advisory day and the day before:
 - i. Green chop;
 - ii. Hand harvesting;
 - iii. Integrated pest management;
 - iv. Multi-year crop;
 - v. Pre-harvest soil preparation; or
 - vi. Shuttle/system/large carrier.
3. Noncropland and commercial farm roads.
- a. At least one of the following best management practices shall be implemented on all noncropland and commercial farm roads:
 - i. Access restriction;
 - ii. Aggregate cover;
 - iii. Critical area planting;
 - iv. Organic material cover;
 - v. Reduce vehicle speed;
 - vi. Synthetic particulate suppressant;
 - vii. Watering; or
 - viii. Wind barrier;
 - b. At least one of the following best management practices shall be implemented on a Yuma PM₁₀ advisory day and, unless otherwise specified, the day before:
 - i. Aggregate cover;
 - ii. Critical area planting;
 - iii. Organic material cover;
 - iv. Other road stabilization;
 - v. Synthetic particulate suppressant;
 - vi. Watering (required only on, not before, a Yuma PM₁₀ advisory day);
 - vii. Wind barrier.
4. Cropland.
- a. At least one of the following best management practices shall be implemented on all cropland:
 - i. Cover crop;
 - ii. Cross-wind ridges;
 - iii. Cross-wind strip cropping;
 - iv. Mulching;
 - v. Multi-year crop;
 - vi. Permanent cover;
 - vii. Residue management;
 - viii. Sequential cropping;

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- ix. Stabilization of soil prior to plant emergence;
 - x. Surface roughening; or
 - xi. Wind barrier.
 - b. At least one of the following best management practices shall be implemented on a Yuma PM₁₀ advisory day and the day before:
 - i. Cover crop;
 - ii. Cross-wind ridges;
 - iii. Cross-wind strip-cropping;
 - iv. Mulching;
 - v. Multi-year crop;
 - vi. Permanent cover;
 - vii. Residue management;
 - viii. Stabilization of soil prior to plant emergence;
 - ix. Surface roughening; or
 - x. Wind barrier.
- E. A commercial farmer shall implement at least one of the following best management practices when conducting significant agricultural earth moving activities:
 - 1. Apply water prior to conducting significant agricultural earth moving activities or time significant agricultural earth moving activities to coincide with precipitation. Soil down to the maximum disturbed depth must have a minimum soil moisture content of 50 to 75 percent of available water capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 - 2. Apply water during significant agricultural earth moving activities. Soil must have a minimum soil moisture content of 25 to 50 percent of available water capacity down to the maximum disturbed depth. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 - 3. Cease activities on all Yuma PM₁₀ advisory days; or
 - 4. Conduct significant agricultural earth moving activities in a manner to reduce a minimum of one ground operation across a commercial farm than would otherwise be required by using equipment that is the most efficient means of moving the soil.
- F. On discovery of the deposit of trackout from a commercial farm onto an area accessible to the public, a commercial farmer:
 - 1. Shall, within 24 hours of discovery, clean up or cause to be cleaned up the trackout material from the area with one of the following control measures:
 - a. Manual sweeping and pickup;
 - b. Operating a rotary brush or broom accompanied or preceded by wetting;
 - c. Operating a street sweeper; or
 - d. Flushing with water, if curb and gutters are not present and where the use of water will not result in a source of trackout, result in adverse impacts on storm water drainage systems, or violate any Arizona Pollutant Discharge Elimination System permit program.
 - 2. Shall not clean up trackout in a manner that creates another source of fugitive dust.
- G. From and after the start of the 2028 crop year, a commercial farmer who engages in a regulated agricultural activity shall complete and submit to the Department a BMP selection form at least three days before beginning regulated agricultural activity. Thereafter, a new BMP selection form shall be completed and submitted to the Department every year at least two weeks before the beginning of the next crop year. The Department may allow the commercial farmer to submit the BMP selection form to the Arizona Department of Agriculture, in which case the Arizona Department of Agriculture shall forward the completed BMP selection form to the Department. The BMP selection form shall include at a minimum the following information:
 - 1. The name, mailing address, email address, and telephone number of the commercial farmer responsible for compliance at the commercial farm, signature, and date of signature;
 - 2. The street address or description of the physical location of the commercial farm;
 - 3. The best management practices selected by the commercial farmer for the coming year for tillage operations; ground operations and harvest; noncropland and commercial farm roads; cropland; and significant earth moving activities in order to comply with subsections (B) through (E);
 - 4. Identification of the area or crop subject to each best management practice selected; and
 - 5. Certification that the best management practices selected for the prior crop year were implemented in accordance with the prior year's BMP selection form and any revisions adopted pursuant to subsection (H) or identification of any times and locations where the selected best management practices were not implemented.
- H. If a commercial farmer makes changes to the best management practices selected in the most recent BMP selection form, the commercial farmer shall amend the form to reflect the changes and keep the amended form on site.
- I. A commercial farmer shall maintain records demonstrating compliance with this Section for three years after creation of the record. Records shall include a copy of the current BMP selection form, including any amendments made pursuant to subsection (H), and supporting documentation reasonably necessary to confirm implementation of the BMPs. Complete and accurate records kept on forms developed by the Department for a particular best management practice shall be deemed to comply with the requirements of this subsection with regard to that best management practice. If implementation of a best management practice can be confirmed through visual inspection, a record for that best management practice is not required. A commercial farmer shall provide the records required under this subsection immediately during an inspection or within two business days after written request from the department.

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- J.** The following contingency measure shall go into effect without further action by the Director if EPA finds that the Yuma PM₁₀ Non-attainment Area has failed to attain the national ambient air quality standard for PM₁₀ by the attainment date: Rather than implementing one best management practice under subsection (B), a commercial farmer shall implement two. Within 30 days after written notice from the Director that EPA has made a finding of failure to attain, a commercial farmer shall submit an amended BMP selection form reflecting this change.

ARTICLE 13. STATE IMPLEMENTATION PLAN RULES FOR SPECIFIC LOCATIONS

PART E. YUMA PM₁₀ NONATTAINMENT AREA

R18-2-E1301. Definitions

In addition to the terms defined generally in R18-2-101, the following defined terms shall apply to R18-2-E1302 and R18-2-E1303.

1. "Average daily trips" means the 24-hour average number of vehicles that cross a given point on a surface as determined by the most recent Institute of Transportation Engineers Trip Generation Manual, tube counts, or observations.
2. "Area accessible to the public" means any paved parking lot or paved roadway, including curbs, gutters, shoulders, travel lanes, and sidewalks, that can be entered or used for public travel primarily for purposes unrelated to the dust-generating operations.
3. "Chemical dust suppressant" means any non-toxic chemical or organic dust suppressant, other than water, which meets any specifications, criteria, or tests required by any federal, state, or local water agency and is not prohibited for use by any applicable law, rule, or regulation.
4. "Construction" means building or modifying a capital improvement resting upon, connected to, or buried in the earth. Construction includes, but is not limited to, vertical construction, residential construction, installing underground utilities, installing above-ground utilities, and building physical infrastructure including, but not limited to, roads, highways, railways, flood structures, drainage works and irrigation works.
5. "Construction general permit" means a general permit issued by the Director pursuant to R18-2-502 covering dust generating operations at a construction site.
6. "Construction site" means any portion of a property on which dust-generating operations occur or are planned to occur during construction, including access roads to the property. Properties that are immediately adjacent to each other and are owned or controlled by the same person shall be considered a single property for purposes of this definition.
7. "Control measure" means a technique, practice, or procedure used to prevent or minimize the generation, emission, entrainment, suspension, or airborne transport of fugitive dust in order to comply with applicable standards.
8. "Disturbed surface area" means any portion of the earth's surface or material placed on the earth's surface that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural conditions if the potential for the emission of fugitive dust is increased by the modification. This term shall not include any area where the surface material is demonstrated to have a silt content of less than five percent by mass as determined by ASTM International (ASTM) method C136.
9. "Dust control plan" means a written plan submitted to and approved by ADEQ describing all control measures to be implemented and maintained in order to prevent or minimize emissions of fugitive dust.
10. "Dust-generating operation" means any activity capable of generating fugitive dust, including but not limited to:
 - a. Earthmoving activities;
 - b. Land clearing, maintenance and clean-up using mechanized equipment;
 - c. Land-leveling or excavating;
 - d. Weed abatement by discing or blading;
 - e. Construction;
 - f. Demolition;
 - g. Bulk material transporting, stacking, screening, sorting, loading, and unloading operations;
 - h. Operation of motorized machinery or vehicles;
 - i. Operation of any outdoor heavy equipment;
 - j. Establishment of or traffic on unpaved traffic areas;
 - k. Establishment of or traffic on unpaved haul/access roads to, from, or within a construction site; and
 - l. Installing initial landscapes using mechanized equipment.
11. "Dust-generating site" means any land surface from which fugitive dust emissions occur.
12. "Dust suppressant" means hygroscopic material, solution of water and chemical surfactant foam, non-toxic chemical stabilizer or any other dust palliative, which is not prohibited for ground surface application by the U. S. Environmental Protection Agency (EPA) or the Arizona Department of Environmental Quality (ADEQ), or any applicable law, rule, or regulation, as a treatment material for reducing fugitive dust emissions.
13. "Earthmoving operation" means the use of any equipment for an activity that may generate fugitive dust such as, but not limited to, the following activities:
 - a. Cutting and filling;
 - b. Grading;
 - c. Leveling;
 - d. Excavating;
 - e. Trenching;
 - f. Loading or unloading of bulk materials;
 - g. Demolishing;
 - h. Blasting;
 - i. Drilling;

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- j. Adding bulk materials to or removing bulk materials from open storage piles;
 - k. Back-filling;
 - l. Soil mulching; and
 - m. Landfill operations.
- 14. “Emergency” means a situation arising from sudden and reasonably unforeseeable events beyond the control of the owner and/or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the dust-generating operation to exceed a limitation in this rule, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include any noncompliance due to improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
 - 15. “Emergency activity” means the repairs that are a result of an emergency which prevents or hinders the provision of electricity, the distribution/collection of water, and the availability of other utilities due to unforeseen circumstances that are beyond the routine maintenance and repair due to normal wear conducted by a utility or municipality.
 - 16. “End of the workday” means the end of a working period that may include one or more work shifts. If working 24 hours a day, the end of a work day shall be considered no later than eight p.m.
 - 17. “Flat vegetative cover” means rooted vegetation or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind.
 - 18. “Fugitive dust” means regulated particulate matter, which is not collected by a capture system, which is entrained in the ambient air, and which is caused by human or natural activities, including movement of soils, vehicles, equipment, blasting, and wind. Fugitive dust does not include particulate matter emitted directly from combustion or other chemical reactions; from portable brazing, soldering, or welding equipment; or from piledrivers.
 - 19. “Gravel pad” means a layer of washed gravel, rock, or crushed rock that is at least one inch or larger in diameter, that is maintained at the point of intersection of an area accessible to the public and a construction site exit to dislodge mud, dirt, and/or debris from the tires of the motor vehicles and/or haul trucks prior to leaving the construction site. Minimum dimensions must be 30 feet wide by three inches deep and 50 feet long, or the length of the longest haul truck, whichever is greater. If an unpaved surface exit does not have adequate width to install a 30-foot wide gravel pad, then the width of the gravel pad must cover the full width of the unpaved surface exit and such shorter width must be adequate to prevent trackout.
 - 20. “Grizzly” means a device (i.e. rails, pipes, or grates) maintained at the point of intersection of a paved public roadway and a construction site entrance to dislodge mud, dirt and/or debris from the tires of the motor vehicles or haul trucks prior to leaving the construction site.
 - 21. “Haul truck” means any fully or partially open-bodied self-propelled vehicle including any non-motorized attachments such as, but not limited to, trailers or other conveyances which are connected to or propelled by the actual motorized portion of the vehicle and used for transporting bulk materials.
 - 22. “High wind conditions” means an hourly average wind speed of 25 miles per hour or more or an instantaneous wind gust of 40 miles per hour or more as measured in the affected area by a meteorological monitoring station.
 - 23. “Industrial, commercial, or institutional” means any nonresidential, developed, or developing site including stores, offices, hospitals, schools, etc.
 - 24. “Local road” means either a road with a federal functional classification of 7 in the Arizona Department of Transportation’s Arizona Transportation Information System (ATIS) or any extant, paved, public road that is not currently classified within the ATIS. The latest vintage of ATIS data available on the maps section of the Arizona Department of Transportation’s website shall be used for this determination.
 - 25. “Mechanized equipment” means equipment that is powered or energized by any motor, engine, or hydraulic or pneumatic device that is used for construction, dust-generating operations, or earthmoving activity.
 - 26. “Motor vehicle” means a self-propelled vehicle for use on the public roads and highways of the State of Arizona and required to be registered under the Arizona State Uniform Motor Vehicle Act, including any non-motorized attachments such as, but not limited to, trailers and other conveyances which are connected to or propelled by the actual motorized portion of the vehicle.
 - 27. “Newly constructed or modified” means construction of a new building, structure, or traffic area, or a change in use, occupancy, or ownership of an existing property.
 - 28. “Normal farm cultural practice” means all activities by the owner or operator conducted on any facility for the production of crops and/or nursery plants. Disturbances of the field surface caused by turning under stalks, tilling, leveling, planting, fertilizing, or harvesting are included in this definition.
 - 29. “Off-road vehicle” means any self-propelled conveyance specifically designed for off-road use, including, but not limited to, off-road or all-terrain equipment, trucks, cars, motorcycles, motorbikes, or motor buggies.
 - 30. “Open area” means any of the following:
 - a. A parcel or lot of land that contains no structures.
 - b. Any portion of a parcel or lot of land that contains no structures.
 - c. Any combination of the areas specified in subsections 30.a and 30.b that are immediately adjacent and are owned or controlled by the same person.
 - 31. “Owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source, property, dust-generating operation, or activity subject to this Part and includes any developer, responsible official, construction general permit applicant, general contractor, subcontractor, site supervisor, or management company responsible for the stationary source, property, dust-generating operation, or activity.
 - 32. “Pave” means to apply asphalt, concrete, or other similar material to a roadway surface such as asphaltic concrete, concrete pavement, chip seal, or rubberized asphalt.
 - 33. “Pavement” means the surface of a road that has been paved.

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34. “PM₁₀-certified street sweeper” means a street sweeper that is certified in accordance with South Coast Air Quality Management District Rule 1186 as meeting sweeper certification procedures and requirements for PM₁₀ efficient sweepers.
35. “Property line” means the boundaries of an area in which either a person causing the emission or a person allowing the emission has the legal use or possession of the property. Where such property is divided into one or more sub-tenancies, the property line or property lines shall refer to the boundaries dividing the areas of all sub-tenancies.
36. “Public road” means a road that is owned by a federal, state, county, municipal, or other governmental or quasi-governmental agency and is open to public travel.
37. “Road” means any path used by motor vehicles for the purposes of travel. A road is not a horse trail, hiking path, bicycle path, or other similar path used exclusively for purposes other than travel by motor vehicles.
38. “Road construction” means the use of any equipment for the paving or new construction or expansion of a road, street, or highway.
39. “Road maintenance” means the use of any equipment for the repair and preservation of an existing road surface, street, or highway.
40. “Rural area” means any area not defined as an “urban area” under this Section.
41. “Silt” means any aggregate material with a particle size less than 75 micrometers in diameter, which passes through a No. 200 sieve.
42. “Stabilized” means, unless otherwise stated, the area satisfies one or more of the following standards as determined in accordance with Appendix 16, section 16.1(B) through (G): a soil crust, a threshold friction velocity (TFV) of 100 cm/second or higher when corrected for non-erodible elements, flat vegetative cover that is greater than or equal to 50 percent, standing vegetative cover that is greater than or equal to 30 percent, standing vegetative cover that is greater than or equal to 10 percent if the threshold friction velocity is greater than or equal to 43 cm/second when corrected for non-erodible elements, or a percent cover that is greater than or equal to 10 percent for non-erodible elements.
43. “Standing vegetative cover” means vegetation that is rooted with a predominantly vertical orientation.
44. “Tactical training” means training conducted by the U.S. Department of Defense, the U.S. military services, or their allies for combat, combat support, combat service support, tactical or relief operations, including but not limited to munitions training.
45. “Trackout” means any and all bulk materials that adhere to and agglomerate on the surfaces of motor vehicles, haul trucks, and/or equipment (including tires) and that have fallen or been deposited onto an area accessible to the public.
46. “Trackout control device” means a gravel pad, grizzly, wheel wash system, or a paved area, located at the point of intersection of an unpaved area and an area accessible to the public that controls or prevents vehicular trackout.
47. “Trenching” means digging a long, narrow excavation in the earth (as for drainage or installation of utility lines).
48. “Unpaved” means not paved as defined in this Section.
49. “Unpaved haul/access road” means any on-site unpaved road used by commercial, industrial, institutional, and/or governmental traffic.
50. “Unpaved traffic area” means any unpaved non-road area that is used by or with the consent of the property owner for parking, maneuvering, material handling, or storing motor vehicles and equipment. An unpaved traffic area includes unpaved parking lots and equipment staging areas, automobile impound yards, wrecking yards, automobile dismantling yards, salvage yards, material handling yards, and storage yards.
51. “Urban area” means an area within an incorporated city boundary or within unincorporated areas completely surrounded by an incorporated city.
52. “Windblown dust” means visible emissions that are generated by wind action alone.
53. “Yuma PM₁₀ advisory day” means a day for which ADEQ has given notice to the public that PM₁₀ concentrations are expected to exceed the national ambient air quality standard for PM₁₀ in the Yuma PM₁₀ nonattainment area.
54. “Yuma PM₁₀ nonattainment area” means the Yuma PM₁₀ planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.

R18-2-E1302. Controls for Fugitive Dust – Dust-Generating Sites

A. Applicability.

1. This Section applies to the following dust-generating sites in the Yuma PM₁₀ nonattainment area except for those listed in subsection (B):
 - a. Open areas, as provided in subsection (C).
 - b. Unpaved traffic areas, as provided in subsection (D).
 - c. Trackout from open areas and unpaved traffic areas, as provided in subsection (E).
 - d. Unpaved roads, as provided in subsection (F).
 - e. Paved public roads, as provided in subsection (G).
2. Compliance with the standards established in this Section shall be determined in accordance with subsection (H). Records of compliance shall be kept in accordance with subsection (I).
3. This section is effective on [DATE NFRM IS FILED WITH SOS]. Except as otherwise specifically stated, compliance with this rule shall be required by no later than the effective date.

B. Exemptions. This Section does not apply to disturbed surface areas resulting from the following activities:

1. Activities at a construction site that are subject to R18-2-E1303.
2. Commercial farm activities that are subject to R18-2-613.01.
3. Any of the following activities when conducted without the use of mechanized equipment:
 - a. Establishing initial landscapes.
 - b. Maintaining landscapes.

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- c. Playing on or maintaining a field used for non-motorized sports.
 - 4. Emergency activities conducted by any utility or government agency in order to protect public health and the environment, prevent public injury, or restore critical utilities to functional status.
 - 5. The following military training and military equipment and munitions testing activities conducted by the United States Department of Defense: military tactical training; environmental tests to determine whether military equipment is suitably designed to survive the conditions that it would experience throughout its service life; maintenance, repair, and removal of targets and munitions associated with military tactical training; open areas on active military ranges, including designated impact areas, landing zones, and bivouac areas. This exemption applies solely to the areas used for the specific activities identified. Unpaved roads, staging areas, parking lots, and other activities or areas related to the activities are not exempt. For example, an unpaved road providing access to an unpaved bivouac area would not be exempt, although the bivouac area itself would be.
- C. Open areas.**
- 1. Applicability.
 - a. This subsection applies to any open area that contains at least 1,000 total square feet of disturbed surface area and is:
 - i. Greater than 0.1 acres in size, if located within an urban area, or
 - ii. Greater than 0.5 acres in size, if located within a rural area.
 - b. This subsection does not apply to unpaved traffic areas.
 - 2. Visible Emissions Limitation.
 - a. Standard. The owner or operator of an open area shall not cause or allow visible emissions of fugitive dust to travel beyond the property line within which the emissions are generated as provided in (H)(1).
 - b. Exemption. The visible emissions limits in subsection (C)(2) shall not apply if high wind conditions cause fugitive dust emissions to exceed the visible emissions requirements in subsection (C)(2) and the owner or operator ensures that all requirements of this section are implemented.
 - 3. Stabilization. The owner or operator of an open area shall satisfy one or more of the following standards throughout the open area:
 - a. A soil crust.
 - b. A threshold friction velocity (TFV) of 100 cm/second or higher when corrected for non-erodible elements.
 - c. Flat vegetative cover that is greater than or equal to 50 percent.
 - d. Standing vegetative cover that is greater than or equal to 3 percent.
 - e. Standing vegetative cover that is greater than or equal to 10 percent if the threshold friction velocity is greater than or equal to 43 cm/second when corrected for non-erodible elements.
 - f. A percent cover that is greater than or equal to 10 percent for non-erodible elements.
 - 4. Responding to Vehicle Use. An owner or operator of an open area who has knowledge or evidence of trespass and disturbance from motor vehicle use shall comply with both of the following requirements:
 - a. Within 14 calendar days after acquiring knowledge of trespass and disturbance, the owner or operator shall restore stabilization of all disturbed surface areas by meeting at least one of the stabilization standards specified in subsection (C)(3).
 - b. Within 30 calendar days after acquiring knowledge of trespass and disturbance, the owner or operator shall implement one of the following measures to limit vehicle use:
 - i. Installing physical barriers, such as curbs, fences, gates, posts, shrubs, or trees.
 - ii. Posting “no trespassing” signs conforming to applicable local, county, state or federal standards.
 - 5. Trackout. The owner or operator of an open area shall comply with the trackout cleanup requirements in subsection (E).
- D. Unpaved Traffic Areas.**
- 1. Applicability. This subsection applies to unpaved traffic areas that satisfy all of the following conditions:
 - a. The area is located at an industrial, commercial, or institutional site.
 - b. The area was newly constructed or modified after the effective date of this rule.
 - c. The area is greater than or equal to one acre in size.
 - 2. Visible Emissions Limitation.
 - a. Standard. The owner or operator of an unpaved traffic area shall not cause or allow visible emissions of fugitive dust to travel beyond the property line within which the emissions are generated as provided in (H)(1).
 - b. Exemption. The visible emissions limits in subsection (D)(2) shall not apply if high wind conditions cause fugitive dust emissions to exceed the visible emissions requirements in subsection (D)(2) and the owner or operator ensures that all control measures and requirements are implemented.
 - 3. Fugitive Dust Controls. The owner or operator of an unpaved traffic area shall implement one or a combination of the following measures throughout the area to reduce fugitive dust:
 - a. Install and maintain pavement.
 - b. Apply and maintain clean gravel to a depth of two inches.
 - c. Apply and maintain dust suppressants in accordance with the manufacturer’s specifications.
 - d. Apply and maintain water sufficient to satisfy the stabilization standards in subsection (C)(3)(a) or (b).
 - 4. Trackout. The owner or operator of an unpaved traffic area shall comply with the trackout cleanup requirements in subsection (E).
- E. Trackout from Open Areas and Unpaved Traffic Areas. Within 24 hours after discovery that trackout from an open area subject to subsection (C) or an unpaved traffic area subject to subsection (D) has been deposited onto a paved public road, the owner or operator of the open area or unpaved traffic area shall clean up or cause to be cleaned up the trackout with one of the following measures:**
- 1. Manual sweeping and pickup;
 - 2. Operating a rotary brush or broom accompanied or preceded by wetting;

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3. Operating a street sweeper; or
4. Flushing with water, if curbs and gutters are not present and where the use of water will not result in a source of trackout, result in adverse impacts on storm water drainage systems, or violate any Arizona Pollutant Discharge Elimination System permit program.

E. Unpaved Roads.

1. Applicability. The requirements of subsections (F)(3) and (4) apply to an unpaved road, if either of the following establishes that the road experiences average daily trips of 150 or more:
 - a. Existing reliable information known to the owner or operator of the road.
 - b. A trip count required pursuant to subsection (F)(2).
2. Trip Monitoring. The owner or operator of an unpaved road shall provide a count of the average daily trips for the road in writing within 60 days after receiving a written request from the Department.
3. Visible Emissions Limitation.
 - a. Standard. The owner or operator of an unpaved road shall not cause or allow visible emissions of fugitive dust from the road to exceed 20 percent opacity.
 - b. Exemption. The visible emissions limits in subsection (F)(3) shall not apply if high wind conditions cause fugitive dust emissions to exceed the visible emissions requirements in subsection (F)(3) and the owner or operator ensures that all control measures and requirements are implemented.
4. Fugitive Dust Controls. Upon the effective date of this rule, the owner or operator of an unpaved road shall implement one or a combination of the following measures along the entire length of the road:
 - a. Install and maintain pavement.
 - b. Apply and maintain clean gravel to a depth of two inches.
 - c. Apply and maintain dust suppressants in accordance with the manufacturer's specifications.
 - d. Apply and maintain water sufficient to satisfy the stabilization standards in subsection (C)(3)(a) or (b).
5. Prohibition. No new unpaved public roads shall be constructed after the effective date of this section.

G. Paved Public Roads.

1. Applicability. This subsection applies to the following:
 - a. Paved public roads.
 - b. Unpaved shoulders on paved public roads.
2. Trip Monitoring. The owner or operator of a paved public road shall provide a count of the average daily trips for the road in writing within 60 days after receiving a written request from the Department.
3. Visible Emissions Limitation.
 - a. Standard. The owner or operator of a paved public road or the unpaved shoulder of a paved public road shall not cause or allow visible emissions of fugitive dust from the road to exceed 20 percent opacity.
 - b. Exemption. The visible emissions limits in subsection (G)(3) shall not apply if high wind conditions cause fugitive dust emissions to exceed the visible emissions requirements in subsection (G)(3) and the owner or operator ensures that all control measures and requirements of this section are implemented.
4. Street Sweeping Requirements.
 - a. The owner or operator of paved public roads shall sweep the paved roads and paved shoulders in accordance with the following schedule:
 - i. At least once every two weeks for a local road if either of the following establishes that the road experiences average daily trips greater than or equal to 500: (1) existing reliable information known to the owner or operator of the road; or (2) a trip count required pursuant to subsection (G)(2).
 - ii. At least once every three months for all paved public roads not subject to subsection (G)(4)(a)(i).
 - b. All roads subject to subsection (G)(4)(a)(i) shall be swept by PM₁₀-certified street sweepers.
 - c. At least 80 percent of all paved public roads shall be swept by PM₁₀-certified street sweepers.
5. Unpaved Shoulders. The owner or operator of an unpaved shoulder of a paved public road shall implement one or a combination of the following measures over the entire shoulder to reduce fugitive dust:
 - a. Install and maintain pavement.
 - b. Apply and maintain clean gravel to a depth of two inches.
 - c. Apply and maintain dust suppressants in accordance with the manufacturer's specifications.
 - d. Stabilize in accordance with subsection (C)(3).

H. Compliance Determination Methods.

1. Visible Emissions Beyond the Property Line.
 - a. Compliance with the limits on visible emissions beyond the property line applicable to open areas and unpaved traffic areas under subsections (C)(2) and (D)(2) shall be determined with EPA Reference Method 22.
 - b. This limitation is met when there are no visible emissions exceeding 30 seconds in duration in any six-minute period.
2. Opacity Limits. Compliance with the limits on opacity in subsections (F)(3) and (G)(3) shall be determined in accordance with section 16.1.A.1 of Appendix 16 of this Chapter.

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3. Stabilization Requirements. Compliance with the stabilization requirements in subsection (C)(3) shall be determined with the methods in Appendix 16 of this Chapter.

Subsection	Stabilization Method	Appendix 16 Section	Compliance Determination Method or Methods
(C)(3)(a)	Soil crust	A16.1.C	Soil Crust Determination (the Drop Ball Test)
(C)(3)(b)	Minimum threshold friction velocity (TFV)	A16.1.D	Determination of TFV
(C)(3)(c)	Flat vegetative cover	A16.1.E	Determination of Flat Vegetative Cover
(C)(3)(d)	Standing vegetative cover	A.16.1.F	Determination of Standing Vegetative Cover
(C)(3)(e)	Standing vegetative cover + minimum TFV	A.16.1.D and F	Determination of Standing Vegetative Cover; Determination of TFV
(C)(3)(f)	Percent cover with non-erodible elements	A.16.1.G	Rock Test Method

I. Recordkeeping.

1. Any person subject to the requirements of this rule shall create and retain records that provide evidence of control measure application, including records of any street sweeping, water applications, and implementation or maintenance of stabilization measures. The records shall describe the type of treatment or control measure, extent of coverage, and date applied. Complete and accurate records kept on forms supplied by the Department for a particular regulated activity shall be deemed to comply with the requirements of this subsection with regard to that activity.
2. Upon verbal or written request by the Department, a person subject to this subsection shall provide the records and supporting documentation within two business days after the request, excluding weekends. If the Department is at the site where requested records are kept, the records shall be provided immediately.
3. The records required by this subsection shall be retained for at least three years.

R18-2-E1303, Controls for Fugitive Dust – Dust-Generating Operations at Construction Sites

A. Applicability.

1. This Section applies to all construction sites where dust-generating operations disturb a total surface area of 1 acre or more in the Yuma PM₁₀ nonattainment area except for the operations listed in subsection (B).
2. If a portion of a construction site is located within the Yuma PM₁₀ nonattainment area while a portion is located outside of it, this Section applies to the entire construction site.
3. If the Director has issued a construction general permit for the Yuma PM₁₀ nonattainment area, subsections (H) and (I) require owners or operators of dust-generating operations subject to this Section to obtain authorization to operate under the general permit and to submit a dust control plan with the application for authorization to operate.
4. Owners and operators are required to comply with all requirements of this Section other than subsections (H) and (I) regardless of whether a construction general permit has been issued.
5. This Section is effective on [DATE NFRM IS FILED WITH SOS]. Except as otherwise specifically stated, compliance with this Section shall be required by no later than the effective date.

B. Exemptions. This Section does not apply to the following activities:

1. Commercial farm activities that are subject to R18-2-613.01.
2. Emergency activities conducted by any utility or government agency in order to prevent public injury, protect public health or the environment, or restore critical utilities to functional status.
3. Rooftop operations for cutting, drilling, grinding, or coring roofing tile when such activity is occurring on a pitched roof.
4. Unless the contingency measure in subsection (L) has taken effect, public road construction, including new public road construction, existing public road maintenance, or existing public road expansion or modification.

C. Visible Emissions Requirements.

1. The owner or operator of any dust-generating operation or disturbed surface area at a construction site shall ensure that visible emissions comply with either subsection (C)(1)(a) or (b) at all times, except as provided in subsection (C)(2). Visible emissions shall either:
 - a. Not exceed 20 percent opacity; or
 - b. Not extend beyond the property line within which the emissions are generated.
2. Exemptions.
 - a. The visible emissions limits in subsection (C)(1) shall not apply if high wind conditions cause fugitive dust emissions to exceed the visible emissions requirements in subsection (C)(1) and the owner and operator:
 - i. Is in compliance with subsection (D);
 - ii. Is in compliance with the construction general permit and the dust control plan, to the extent applicable; and
 - iii. Keeps records as required by subsection (N).
 - b. The visible emissions limits in subsection (C)(1) shall not apply to emergency repair of flood control channels and water retention basins, provided that the control measures in subsection (D) are implemented.

D. Control Requirements.

1. Generally.

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- a. The owner or operator of dust-generating operations or disturbed surface areas at a construction site shall install, maintain, and use the applicable control measures required by this subsection.
 - b. In the event of high wind conditions that cause visible emissions to exceed the limits in subsection (C), all dust-generating operations occurring at a construction site that may contribute to these emissions shall cease, unless additional watering or other stabilization prevents such excess emissions.
2. Unpaved Traffic Areas.
 - a. The owner or operator of any unpaved traffic area shall not allow silt loading greater than or equal to 0.33 oz/ft². If silt loading is greater than or equal to 0.33 oz/ft², then the owner or operator shall not allow the silt content to exceed eight percent.
 - b. The owner or operator of any unpaved traffic area at a construction site shall stabilize the entire area by implementing one of the following methods:
 - i. Apply water and maintain soil moisture to ensure a stabilized surface;
 - ii. Apply and maintain chemical dust suppressant to manufacturer specifications;
 - iii. Apply and maintain clean gravel to a depth of at least two inches; or
 - iv. Install and maintain pavement.
3. Unpaved Haul/Access Roads.
 - a. The owner or operator of any unpaved haul/access road shall not allow silt loading greater than or equal to 0.33 oz/ft². If silt loading is greater than or equal to 0.33 oz/ft², then the owner or operator shall not allow the silt content to exceed six percent.
 - b. The owner or operator of any unpaved haul/access road at a construction site shall stabilize the entire area by implementing one of the following methods as necessary to ensure the area complies with subsection (D)(3)(a):
 - i. Apply water and maintain soil moisture to ensure a stabilized surface;
 - ii. Apply and maintain chemical dust suppressant to manufacturer specifications;
 - iii. Apply and maintain clean gravel to a depth of at least two inches; or
 - iv. Install and maintain pavement.
4. Inactive Disturbed Surface Areas.
 - a. The owner or operator of any disturbed surface area on which no activity occurs for more than 30 days shall meet at least one of the standards established in subsections (D)(4)(a)(i) through (vi) below.
 - i. Maintain a soil crust;
 - ii. Maintain a threshold friction velocity (TFV) for disturbed surface areas corrected for non-erodible elements of 100 cm/second or higher;
 - iii. Maintain a flat vegetative cover (i.e., attached [rooted] vegetation or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind) that is equal to at least 50 percent;
 - iv. Maintain a standing vegetative cover (i.e., vegetation that is attached [rooted] with a predominant vertical orientation) that is equal to or greater than 30 percent;
 - v. Maintain a standing vegetative cover (i.e., vegetation that is attached [rooted] with a predominant vertical orientation) that is equal to or greater than 10 percent and where the threshold friction velocity is equal to or greater than 43 cm/second when corrected for non-erodible elements; or
 - vi. Maintain a percent cover that is equal to or greater than 10 percent for non-erodible elements.
 - b. For areas or portions of areas in which the dust-generating operations have ceased or will cease for more than 30 days, the owner or operator shall erect signs and install physical barriers to limit trespass.
5. Active Disturbed Surface Areas. The owner or operator of any disturbed surface area at a construction site, where dust-generating operations are occurring, shall implement all of the following control measures:
 - a. Limit vehicle traffic and soil disturbance with the use of fencing, barriers, barricades, or signage.
 - b. Stabilize and maintain stability of all disturbed areas throughout the construction site by doing one or both of the following:
 - i. Apply water to stabilize soils and ensure they remain sufficiently damp or crusted to prevent fugitive emissions; or
 - ii. Apply dust suppressant following manufacturer specifications in sufficient quantity and frequency to maintain a stabilized surface.
6. Demolition.
 - a. The owner or operator of a construction site where dust-generating operations are occurring from demolition activity shall implement the following:
 - i. Apply water to stabilize demolition debris; or
 - ii. Apply a dust suppressant to stabilize demolition debris.
7. Weed Abatement by Discing or Blading. The owner or operator of a dust-generating operation at a construction site that involves weed abatement by discing or blading shall comply with all of the following control measures:
 - a. Before and while weed abatement by discing or blading occurs, apply water; and
 - b. After weed abatement by discing or blading occurs, stabilize the area in accordance with subsection (D)(4).
8. Cut and Fill (site grade preparation). The owner or operator of a dust-generating operation at a construction site that involves cut and fill activities associated with site grade preparation shall comply with all of the following:
 - a. Stabilize surface soils where support equipment and vehicles will operate by doing one of the following:
 - i. Pre-watering and maintaining surface soils in a stabilized condition where support equipment and vehicles will operate; or
 - ii. Applying and maintaining a dust suppressant on surface soils where support equipment and vehicles will operate.

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- b. Pre-water soils prior to cut and fill activities to allow time for penetration. To determine if soils are moist to depth of cut, dig a test hole to depth of cut or equipment penetration. Continue to pre-water if not visibly moist to depth of cut.
 - c. Stabilize soils during cut activities by doing both the following:
 - i. Apply water to depth of cut prior to subsequent cuts; and
 - ii. Conduct fill only without continuing cutting operations, until soil is moist to depth of cut.
 - d. Stabilize soils after cut and fill activities by doing one of the following:
 - i. Water disturbed soils to form crust following fill and compaction; or
 - ii. Apply and maintain a dust suppressant on disturbed soils to form crust following fill and compaction.
 9. Trenching. The owner or operator of a dust-generating operation at a construction site that involves trenching shall comply with the following:
 - a. Stabilize surface soils where trenching equipment, support equipment and vehicles will operate by doing one of the following:
 - i. Pre-water and maintain surface soils in a stabilized condition where trenching equipment, support equipment and vehicles will operate; or
 - ii. Apply and maintain a dust suppressant to surface soils where trenching equipment, support equipment and vehicles will operate.
 - b. Presoak soils prior to trenching activities by pre-watering surface and soaking to a depth of 18 inches.
 - c. Stabilize soils during trenching activities by maintaining water on trench and soil windrows as they are formed in order to prevent dust.
 - d. Stabilize soils at the completion of trenching activities by doing one of the following:
 - i. Use water to form crust on excavated soils; or
 - ii. Use dust suppressant to form crust on excavated soils.
- E. Trackout, Spillage and Erosion.
1. Trackout Prevention. The owner or operator of a construction site shall prevent trackout, spillage, and erosion from the construction site by implementing one of the following control measures at each exit from the site onto areas accessible to the public:
 - a. Install and use a wheel wash system;
 - b. Install a gravel pad;
 - c. Install a grizzly or rumble grate that consists of raised dividers (rails, pipes, or grates) a minimum of 3 inches tall, 6 inches apart, and 20 feet long, to allow a vibration to be produced such that dust is shaken off the wheels of a vehicle as the entire circumference of each wheel of the vehicle passes over the grizzly or rumble grate; or
 - d. Pave starting from the point of the intersection with an area accessible to the public and extending for a centerline distance of at least 100 feet and a width of at least 20 feet.
 2. Trackout Cleanup.
 - a. The owner or operator of a construction site shall fully remove and clean up trackout, spillage and erosion from the construction site onto all areas accessible to the public, including curbs, gutters, shoulders, travel lanes, and sidewalks, on the following schedule:
 - i. Immediately when trackout, carry-out, or spillage extends a cumulative distance of 50 linear feet or more; and
 - ii. At the end of the workday for all other trackout, carry-out, spillage, and erosion.
 - b. The owner or operator of a construction site shall employ one of the following methods to remove and clean up trackout, spillage and erosion from the construction site onto areas accessible to the public:
 - i. Manual sweeping and pickup;
 - ii. Operating a rotary brush or broom accompanied or preceded by wetting;
 - iii. Operating a street sweeper; or
 - iv. Flushing with water, if curbs and gutters are not present and where the use of water will not result in a source of trackout, result in adverse impacts on storm water drainage systems, or violate any Arizona Pollutant Discharge Elimination System permit.
 - c. The owner or operator of a construction site shall not clean up trackout in a manner that creates another source of fugitive dust.
- F. Signage. For all construction sites of five acres or more, the owner or operator shall post and maintain a project information sign at the main entrance of the construction site such that members of the public can easily view and read the sign at all times during the effective period of the construction general permit. The sign may be combined with signage required by other jurisdictions, provided it satisfies the requirements of this subsection. The sign shall have a white background and black block lettering that is at least four inches high and contain all of the following information:
1. Project name and construction site operator's name;
 2. Name and business phone number of persons responsible for dust control at the construction site; and
 3. Text on the sign stating: "Dust complaints? Call ADEQ at (###-###-####)," where the current phone number for reporting dust complaints to ADEQ is substituted for the placeholder text.
- G. Yuma PM₁₀ Advisory Days. On Yuma PM₁₀ advisory days and on the last operating day before a Yuma PM₁₀ advisory day, an owner or operator shall ensure the construction site is stabilized by completing a site-wide inspection and shall create records complying with the requirements of subsection (N) to verify that either:
1. All applicable control measures, as specified in subsection (D) and the dust control plan, are implemented on dust-generating operations occurring at a construction site, and that disturbed surface areas are stabilized; or
 2. All dust-generating operations occurring at a construction site have ceased, and disturbed surface areas are stabilized.
- H. Requirements for Authorization to Operate under a Construction General Permit.

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1. If the Department has issued a construction general permit applicable to construction activities in the Yuma PM₁₀ Nonattainment Area, no person shall operate or engage in any dust-generating operations at a construction site subject to this Section, unless an authorization to operate under the construction general permit pursuant to R18-2-503 has been obtained.
2. All applications shall be filed in the manner and form prescribed by the Director and at a minimum shall contain the following information:
 - i. Owner or operator information, including name, phone number, mailing address, and email address;
 - ii. Project information, which shall include a construction site drawing and soil designations; and
 - iii. A dust control plan meeting the requirements in subsection (I).
3. Authorization to operate under the dust control general permit shall be subject to the following conditions:
 - a. The permittee shall be responsible for ensuring that all persons engaging in dust-generating operations comply with the conditions of the construction general permit and these regulations;
 - b. The permittee shall be responsible for supplying complete copies of the construction general permit, the authorization to operate, and the dust control plan, to all project contractors and subcontractors;
 - c. If applicable, the permittee shall be responsible for providing the names and certification numbers for dust control coordinators.
4. The Director shall take final action on an application for coverage under the construction general permit and shall approve or disapprove the dust control plan within 14 calendar days after the applicant files a complete application. The Director shall notify the applicant in writing of the Director's approval or denial.
5. Authorization to operate under the construction general permit shall be valid for a period of one year from the date of its issuance. Should the project last longer than one year from the date the authorization to operate was issued, the permittee shall re-apply for authorization to operate at least 14 calendar days prior to the expiration date of the original permit. Authorization to operate under the construction general permit expires if a re-application is not filed at least 14 calendar days prior to the expiration date of the original authorization to operate.
6. The construction general permit, authorization to operate, and dust control plan, shall be posted in a conspicuous location at the construction site, within on-site equipment, or in an on-site vehicle, or shall otherwise be kept available on-site at all times.
- I. Dust Control Plan Requirements for Authorization to Operate Under the Construction General Permit.**
 1. The owner or operator of dust-generating operations occurring at a construction site shall submit to the Director a dust control plan with any application for authorization to operate under the construction general permit.
 2. The applicant shall provide the following information in the manner and form prescribed by the Director:
 - a. Identifying information for the owners and operators of the dust-generating operations responsible for the submittal and implementation of the dust control plan including name, phone number, mailing address, and email address.
 - b. Street address and parcel numbers of the construction site.
 - c. Project information, which shall include a description or diagram of the construction site that provides, at minimum:
 - i. The area of land that will be disturbed with linear dimensions of the disturbed area;
 - ii. The location of the nearest public roads;
 - iii. The number of planned ingress/egress locations onto the construction site and the name of public roads with ingress/egress, if applicable; and
 - iv. The dimensions of any unpaved parking and staging areas.
 - d. Control measures for every actual and potential dust-generating operation and disturbed surface area at the construction site.
 - e. Dust suppressants to be applied at the construction site, including the following product specifications or label instructions for approved usage:
 - i. Method, frequency, and intensity of application; and
 - ii. Type, number, and capacity of application equipment.
 - f. Specific control measures utilized to control and clean up trackout, spillage and erosion in accordance with subsection (E).
 - g. Owner or operator signature and date of signature.
- J. Dust Control Training Classes.**
 1. Basic dust control training class.
 - a. At least once every three years, the following persons shall successfully complete a basic dust control training class conducted or approved by the Director. Upon the successful completion of the training, a certification shall be issued to the trainees.
 - i. Water truck drivers;
 - ii. Water-pull drivers; and
 - iii. The site superintendent or other designated on-site representative of the permit holder.
 - b. The Director may suspend or revoke for cause a certification issued to a person having successfully completed a basic dust control training class conducted or approved by the Director. The Director will provide written notification to such person regarding such suspension or revocation.
 2. Comprehensive Dust Control Training Class.
 - a. At least once every three years, the dust control coordinator, who meets the requirements of subsection (K), shall successfully complete the comprehensive dust control training class conducted or approved by the Director. Upon the successful completion of the training, a certification shall be issued to the trainees.
 - b. The Director may suspend or revoke for cause a certification issued to a person having successfully completed a comprehensive dust control training class conducted or approved by the Director. The Director will provide written notification to such person regarding such suspension or revocation.

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K. Dust Control Coordinator.

1. Any construction site of five acres or more of disturbed surface area shall have at least one dust control coordinator trained in accordance with subsection (J)(2) on-site at all times during dust-generating operations subject to this section.
2. The dust control coordinator shall have full authority to ensure that dust control measures are implemented on-site, including conducting inspections, deployment of dust suppression resources, and modifications or shut-down of activities as needed to control dust.
3. The dust control coordinator shall be responsible for managing dust prevention and dust control on site.
4. The dust control coordinator shall have a valid dust training certification identification card readily accessible on-site while acting as a dust control coordinator.
5. The requirement for a dust control coordinator shall lapse when all of the following events occur:
 - a. The area of disturbed surface area is reduced to less than five acres;
 - b. The previously disturbed surface areas have been stabilized in accordance with subsection (D)(4); and
 - c. The permittee provides notice to the Director of acreage stabilization.

L. Contingency Measure. The following contingency measure will go into effect without further action by the Director if EPA finds that the Yuma PM₁₀ Nonattainment Area has failed to attain the national ambient air quality standard for PM₁₀ by the attainment date: The requirements of this Section shall apply to public road construction, and the exemption established in subsection (B)(4) shall no longer be available.

M. Compliance Determination.

1. Opacity Limits. Compliance with the limit on opacity in subsection (C)(1)(a) shall be determined with the method in Appendix 16 identified in the following table.

Type of Area	Compliance Determination Method
Unpaved Traffic Areas	A16.1.A.1
Unpaved Haul Roads	A16.1.A.1
All Other	A16.2.

2. Visible Emissions Beyond the Property Line.
 - a. Compliance with the limit on visible emissions beyond the property line in subsection (C)(1)(b) shall be determined with EPA Reference Method 22.
 - b. This limitation is met when there are no visible emissions exceeding 30 seconds in duration in any six-minute period.
3. Silt Loading and Content. Compliance with the silt loading and content limits in subsections (D)(2)(a) and (D)(3)(a) shall be determined in accordance with Appendix 16.
4. Stabilization Requirements. Compliance with the stabilization requirements in subsection (D)(4) shall be determined with the methods in Appendix 16 of this Chapter.

Subsection	Stabilization Method	Appendix 16 Section	Compliance Determination Method or Methods
(D)(4)(a)(i)	Soil crust	A16.1.C	Soil Crust Determination (the Drop Ball Test)
(D)(4)(a)(ii)	Minimum threshold friction velocity (TFV)	A16.1.D	Determination of TFV
(D)(4)(a)(iii)	Flat vegetative cover	A16.1.E	Determination of Flat Vegetative Cover
(D)(4)(a)(iv)	Standing vegetative cover	A16.1.F	Determination of Standing Vegetative Cover
(D)(4)(a)(v)	Standing vegetative cover + minimum TFV	A16.1.D and F	Determination of Standing Vegetative Cover; Determination of TFV
(D)(4)(a)(vi)	Percent cover with non-erodible elements	A16.1.G	Rock Test Method

N. Monitoring, Recordkeeping and Reporting.

1. The owner or operator shall conduct and keep a written record of self-inspection on each day dust-generating operations are conducted at the construction site. Self-inspections shall include observations and recording of the following:
 - a. Crusted or damp soils and trackout conditions;
 - b. Method, frequency, and intensity of application or implementation of control measures including water and dust suppressant per manufacturer specification;
 - c. Street sweeping frequency;
 - d. Maintenance of trackout control devices, gravel pads, fences, and tarps; and
 - e. Names of employees who completed the self-inspection record and date of inspection.
2. Upon verbal or written request by the department, the inspection log or other self-inspection records and supporting documentation shall be provided as soon as possible but no later than within two business days after the request. If the department is at the construction site where the requested records are kept, the records shall be provided without delay.
3. The owner or operator shall notify the Director of final project completion as soon as practicable, but no later than 30 days after completion of the construction project.
4. Any person who conducts dust-generating operations at a construction site shall retain copies of any dust control plans for the site and any self-inspection records kept pursuant to this subsection for at least three years from the date the plans or records were created.

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A16. Appendix 16. Fugitive Dust Test Methods

16.1 Test Methods for Stabilization

A. For Paved and Unpaved Roads and Unpaved Parking Lots

1. Opacity Test Method: The purpose of this test method is to estimate the percent opacity of fugitive dust plumes caused by vehicle movement on paved and unpaved roads and unpaved parking lots. This method can only be conducted by an individual who has received certification as a qualified observer. Qualification and testing requirements can be found in A16.2.D.
 - a. Step 1: Stand at least 16.5 feet from the fugitive dust source in order to provide a clear view of the emissions with the sun oriented in the 140° sector to the back. Following the above requirements, make opacity observations so that the line of vision is approximately perpendicular to the dust plume and wind direction. If multiple plumes are involved, do not include more than one plume in the line of sight at one time.
 - b. Step 2: Record the fugitive dust source location, source type, method of control used, if any, observer's name, certification data and affiliation, and a sketch of the observer's position relative to the fugitive dust source. Also, record the time, estimated distance to the fugitive dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position to the fugitive dust source, and color of the plume and type of background on the visible emission observation from both when opacity readings are initiated and completed.
 - c. Step 3: Make opacity observation, to the extent possible, using a contrasting background that is perpendicular to the line of vision. Make opacity observations approximately one meter above the surface from which the plume is generated. Note that the observation is to be made at only one visual point upon generation of a plume, as opposed to visually tracking the entire length of a dust plume as it is created along a surface. Make two observations per vehicle, beginning with the first reading at zero seconds and the second reading at five seconds. The zero-second observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume, but, instead, observe the plume briefly at zero seconds and then again at five seconds.
 - d. Step 4: Record the opacity observations to the nearest five percent on an observational record sheet. Each momentary observation recorded represents the average opacity of emissions for a five-second period. While it is not required by the test method, EPA recommends that the observer estimate the size of vehicles which generate dust plumes for which readings are taken (e.g., mid-size passenger car or heavy-duty truck) and the approximate speeds the vehicles are traveling when readings are taken.
 - e. Step 5: Repeat Step 3 (A16.1.A.1.c) and Step 4 (A16.1.A.1.d) until you have recorded a total of 12 consecutive opacity readings. This will occur once six vehicles have driven on the source in your line of observation for which you are able to take proper readings. The 12 consecutive readings must be taken within the same period of observation but must not exceed one hour. Observations immediately preceding and following interrupted observations can be considered consecutive.
 - f. Step 6: Average the 12 opacity readings together. If the average opacity reading equals 20 percent or lower, the source is in compliance.
2. Silt Content Test Method: The purpose of this test method is to estimate the silt content of the trafficked parts of unpaved roads and unpaved parking lots. The higher the silt content, the more fine dust particles that are released when cars and trucks drive on unpaved roads and unpaved parking lots.
 - a. Equipment
 - (1) A set of sieves with the following openings: four millimeters (mm), two mm, one mm, 0.5 mm, and 0.25 mm (or a set of standard/commonly available sieves), a lid, and a collector pan.
 - (2) A small whisk broom or paintbrush with stiff bristles and dustpan one ft. in width. (The broom/brush should preferably have one, thin row of bristles no longer than 1.5 inches in length).
 - (3) A spatula without holes.
 - (4) A small scale with half-ounce increments (e.g., postal/package scale).
 - (5) A shallow, lightweight container (e.g., plastic storage container).
 - (6) A sturdy cardboard box or other rigid object with a level surface.
 - (7) A basic calculator.
 - (8) Cloth gloves (optional for handling metal sieves on hot, sunny days).
 - (9) Sealable plastic bags (if sending samples to a laboratory).
 - (10) A pencil/pen and paper.
 - b. Step 1: Look for a routinely traveled surface, as evidenced by tire tracks. (Only collect samples from surfaces that are not damp due to precipitation or dew. This statement is not meant to be a standard in itself for dampness where watering is being used as a control measure. It is only intended to ensure that surface testing is done in a representative manner.) Use caution when taking samples to ensure personal safety with respect to passing vehicles. Gently press the edge of a dustpan (one foot in width) into the surface four times to mark an area that is one square foot. Collect a sample of loose surface material using a whiskbroom or brush and slowly sweep the material into the dustpan, minimizing escape of dust particles. Use a spatula to lift heavier elements such as gravel. Only collect dirt/gravel to an approxi-

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mate depth of 3/8 inch or one cm in the one square foot area. If you reach a hard, underlying surface that is < 3/8 inch in depth, do not continue collecting the sample by digging into the hard surface. In other words, you are only collecting a sample of loose material down to 1 cm. In order to confirm that samples are collected to one cm in depth, a wooden dowel or other similar narrow object at least one foot in length can be laid horizontally across the survey area while a metric ruler is held perpendicular to the dowel. At this point, you can choose to place the sample collected into a plastic bag or container and take it to an independent laboratory for silt content analysis. A reference to the procedure the laboratory is required to follow is at the end of this section.

- c. Step 2: Place a scale on a level surface. Place a lightweight container on the scale. Zero the scale with the weight of the empty container on it. Transfer the entire sample collected in the dustpan to the container, minimizing escape of dust particles. Weigh the sample and record its weight.
 - d. Step 3: Stack a set of sieves in order according to the size openings specified above, beginning with the largest size opening (four mm) at the top. Place a collector pan underneath the bottom (0.25 mm) sieve.
 - e. Step 4: Carefully pour the sample into the sieve stack, minimizing escape of dust particles by slowly brushing into the stack with a whiskbroom or brush. (On windy days, use the trunk or door of a car as a wind barricade.) Cover the stack with a lid. Lift up the sieve stack and shake it vigorously up, down, and sideways for at least one minute.
 - f. Step 5: Remove the lid from the stack and disassemble each sieve separately, beginning with the top sieve. As you remove each sieve, examine it to make sure that all of the material has been sifted to the finest sieve through which it can pass (e.g., material in each sieve [besides the top sieve that captures a range of larger elements] should look the same size). If this is not the case, re-stack the sieves and collector pan, cover the stack with the lid, and shake it again for at least one minute. (You only need to reassemble the sieve or sieves that contain material, which requires further sifting.)
 - g. Step 6: After disassembling the sieves and collector pan, slowly sweep the material from the collector pan into the empty container originally used to collect and weigh the entire sample. Take care to minimize escape of dust particles. You do not need to do anything with material captured in the sieves; only the collector pan. Weigh the container with the material from the collector pan and record its weight.
 - h. Step 7: If the source is an unpaved road, multiply the resulting weight by 0.38. If the source is an unpaved parking lot, multiply the resulting weight by 0.55. The resulting number is the estimated silt loading. Then, divide by the total weight of the sample you recorded earlier in Step 2 (A16.1.A.2.b) and multiply the value by 100 to estimate the percent silt content.
 - i. Step 8: Select another two routinely traveled portions of the unpaved road or unpaved parking lot and repeat this test method. Once you have calculated the silt loading and percent silt content of the 3 samples collected, average your results together.
 - j. Step 9: Examine results. If the average silt loading is less than 0.33 oz/ft², the surface is STABLE. If the average silt loading is greater than or equal to 0.33 oz/ft², then proceed to examine the average percent silt content. If the source is an unpaved road and the average percent silt content is six percent or less, the surface is STABLE. If the source is an unpaved parking lot and the average percent silt content is eight percent or less, the surface is STABLE. If your field test results are within two percent of the standard (for example, four percent to eight percent silt content on an unpaved road), it is recommended that you collect three additional samples from the source according to Step 1 (A16.1.A.1.b.ii) and take them to an independent laboratory for silt content analysis.
 - k. Independent Laboratory Analysis: You may also choose to collect two samples from the source, according to Step 1 (A16.1.A.2.b) and send them to an independent laboratory for silt content analysis rather than conduct the sieve field procedure. If so, the test method the laboratory is required to use is: U.S. Environmental Protection Agency (1995), "Procedures for Laboratory Analysis of Surface/Bulk Dust Loading Samples", (AP-42 Fifth Edition, Volume I, Appendix C.2.3: Silt Analysis)", Office of air Quality Planning and Standards, Research Triangle Park, North Carolina.
- B. Stabilization Limitations for Open Areas and Vacant Lots: The test methods described in A16.1.C through A16.1.G of shall be used to determine whether an open area or a vacant lot has a stabilized surface. Should a disturbed open area or vacant lot contain more than one type of disturbance, soil, vegetation, or other characteristics, which are visibly distinguishable, test each representative surface separately for stability, in an area that represents a random portion of the overall disturbed conditions of the site, according to the appropriate test methods in A16.1.C through A16.1.G.
- C. Soil Crust Determination (the Drop Ball Test)
- 1. Drop a steel ball with a diameter of 15.9 millimeters (0.625 inches) and a mass ranging from 16-17 grams (0.56-0.60 ounce) from a distance of one foot directly above (at a 90° angle perpendicular to) the soil surface. If blowsand is present, clear the blowsand from the surfaces on which the drop ball test is conducted. Blowsand is defined as thin deposits of loose uncombined grains covering less than 50 percent of a vacant lot or project site that have not originated from the representative surface being tested. If material covers a visible crust, which is not blowsand, apply the test method in A16.1.D: Determination of Threshold Friction Velocity (TFV) to the loose material to determine whether the surface is stabilized.
 - 2. A sufficient crust is defined under the following conditions: once a ball has been dropped according to A16.1.C.1, the ball does not sink into the surface, so that it is partially or fully surrounded by loose grains and, upon removing the ball, the surface upon which it fell has not been pulverized, so that loose grains are visible.

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3. Randomly select each representative disturbed surface for the drop ball test by using a blind “over the shoulder” toss of a throwable object (e.g., a metal weight with survey tape attached). Using the point of fall as the lower left-hand corner, measure a one-foot square area. Drop the ball three times within one-foot by one-foot square survey area, using a consistent pattern across the survey area. The survey area shall be considered to have passed the drop ball test if at least two out of the three times that the ball was dropped, the results met the criteria in A16.1.C.2. Select at least two other survey areas that represent a random portion of the overall disturbed conditions of the site, and repeat this procedure. If the results meet the criteria of A16.1.C.2 for all of the survey areas tested, then the site shall be considered to have passed the drop ball test and shall be considered sufficiently crusted.
 4. At any given site, the existence of a sufficient crust covering one portion of the site may not represent the existence or protectiveness of a crust on another portion of the site. Repeat the drop ball test as often as necessary on each portion of the overall conditions of the site using the random selection method set forth in A16.1.C.2 for an accurate assessment.
- D. Determination of Threshold Friction Velocity (TFV): For disturbed surface areas that are not crusted or vegetated, determine threshold friction velocity (TFV) according to the following sieving field procedure (based on a 1952 laboratory procedure published by W. S. Chepil).
1. Obtain and stack a set of sieves with the following openings: four millimeters (mm), two mm, one mm, 0.5 mm, and 0.25 mm or obtain and stack a set of standard/commonly available sieves. Place the sieves in order according to size openings, beginning with the largest size opening at the top. Place a collector pan underneath the bottom (0.25 mm) sieve. Collect a sample of loose surface material from an area at least 30 cm by 30 cm in size to a depth of approximately one cm using a brush and dustpan or other similar device. Only collect soil samples from dry surfaces (i.e., when the surface is not damp to the touch). Remove any rocks larger than one cm in diameter from the sample. Pour the sample into the top sieve (4 mm opening) and cover the sieve/collector pan unit with a lid. Minimize escape of particles into the air when transferring surface soil into the sieve/collector pan unit. Move the covered sieve/collector pan unit by hand using a broad, circular arm motion in the horizontal plane. Complete twenty circular arm movements, ten clockwise and ten counterclockwise, at a speed just necessary to achieve some relative horizontal motion between the sieves and particles. Remove the lid from the sieve/collector pan unit and disassemble each sieve separately, beginning with the largest sieve. As each sieve is removed, examine it for loose particles. If loose particles have not been sifted into the finest sieve through which they can pass, reassemble and cover the sieve/collector pan unit and gently rotate it an additional ten times. After disassembling the sieve/collector pan unit, slightly tilt and gently tap each sieve and the collector pan so that material aligns along one side. In doing so, minimize escape of particles into the air. Line up the sieves and collector pan in a row and visibly inspect the relative quantities of catch in order to determine which sieve (or whether the collector pan) contains the greatest volume of material. If a visual determination of relative volumes of catch among sieves is difficult, use a graduated cylinder to measure the volume. Estimate the TFV for the sieve catch with the greatest volume using Table 1 of this appendix, which provides a correlation between sieve opening size and TFV.
 2. Collect at least three soil samples which represent random portions of the overall condition of the site, repeat the above TFV test method for each sample and average the resulting TFVs together to determine the TFV uncorrected for non-erodible elements. Non-erodible elements are distinct elements, in the random portion of the overall conditions of the site, that are larger than one cm in diameter, remain firmly in place during a wind episode, and inhibit soil loss by consuming part of the shear stress of the wind. Non-erodible elements include stones and bulk surface material but do not include flat or standing vegetation. For surfaces with non-erodible elements, determine corrections to the TFV by identifying the fraction of the survey area, as viewed from directly overhead, that is occupied by non-erodible elements using the following procedure. For a more detailed description of this procedure, see A16.1.G. Select a survey area of one meter by one meter that represents a random portion of the overall conditions of the site. Where many non-erodible elements lie within the survey area, separate the non-erodible elements into groups according to size. For each group, calculate the overhead area for the non-erodible elements according to the equations in Table 2. Ensure that consistent units of measurement (e.g., square meters or square inches) when calculating percent cover.

Table 1. Determination of Threshold Friction Velocity.

Tyler Sieve No.	ASTM II Sieve No.	Opening (mm)	TFV (cm/s)
5	5	4	135
9	10	2	100
16	18	1	76
32	35	0.5	58
60	60	0.25	43
Collector Pan	==	==	30

Table 2. Equations 1-5.

Equation 1	Average Length × Average Width = Average Dimensions.
Equation 2	Average Dimensions × Number of Elements = Overhead Area.
Equation 3	Overhead Area of Group 1 + Overhead Area of Group 2 (etc.) = Total Overhead Area.
Equation 4	Total Overhead Area ÷ 2 = Total Frontal Area.
Equation 5	(Total Frontal Area ÷ Survey Area) × 100 = Percent Cover of Non-Erodible Elements.

3. Repeat this procedure on an additional two distinct survey areas that represent a random portion of the overall conditions of the site and average the results. Use Table 3 of this appendix to identify the correction factor for the percent cover of non-

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erodible elements. Multiply the TFV by the corresponding correction factor to calculate the TFV corrected for non-erodible elements.

Table 3. Correction Factors for Threshold Friction Velocity.

Percent Cover of Non-Erodible Elements Factor	Correction Factor
Greater than or equal to 10 percent	5
Greater than or equal to five percent and less than 10 percent	3
Less than five percent and greater than or equal to one percent	2
Less than one percent	None

E. Determination of Flat Vegetative Cover: Flat vegetation includes attached (rooted) vegetation or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind. Flat vegetation, which is dead but firmly attached, shall be considered equally protective as live vegetation. Stones or other aggregate larger than one cm in diameter shall be considered protective cover in the course of conducting the line transect test method. Where flat vegetation exists, conduct the following line transect test method.

1. Line Transect Test Method: Stretch a 100-foot measuring tape across a survey area that represents a random portion of the overall conditions of the site. Firmly anchor both ends of the measuring tape into the surface using a tool such as a screw-driver, with the tape stretched taut and close to the soil surface. If vegetation exists in regular rows, place the tape diagonally (at approximately a 45° angle) away from a parallel or perpendicular position to the vegetative rows. Pinpoint an area the size of a 3/32-inch diameter brazing rod or wooden dowel centered above each 1-foot interval mark along one edge of the tape. Count the number of times that flat vegetation lies directly underneath the pinpointed area at 1-foot intervals. Consistently observe the underlying surface from a 90° angle directly above each pinpoint on one side of the tape. Do not count the underlying surface as vegetated if any portion of the pinpoint extends beyond the edge of the vegetation underneath in any direction. If clumps of vegetation or vegetative debris lie underneath the pinpointed area, count the surface as vegetated, unless bare soil is visible directly below the pinpointed area. When 100 observations have been made, add together the number of times a surface was counted as vegetated. This total represents the percent of flat vegetation cover (e.g., if 35 positive counts were made, then vegetation cover is 35 percent). If the survey area that represents a random portion of the overall conditions of the site is too small for 100 observations, make as many observations as possible. Then, multiply the amount of vegetated surface areas by the appropriate conversion factor to obtain percent cover. For example, if vegetation was counted 20 times within a total of 50 observations, divide 20 by 50 and multiply by 100 to obtain a flat vegetation cover of 40 percent.
2. Conduct the line transect test method, as described in A16.1.E.1 an additional two times on areas that represent a random portion of the overall conditions of the site and average results.

F. Determination of Standing Vegetative Cover: Standing vegetation includes vegetation that is attached (rooted) with a predominant vertical orientation. Standing vegetation, which is dead but firmly rooted, shall be considered equally protective as live vegetation. Conduct the following standing vegetation test method to determine if 30 percent cover or more exists. If the resulting percent cover is less than 30 percent but equal to or greater than 10 percent, then conduct the test in A16.1.D (Determination of Threshold Friction Velocity [TFV]) in order to determine if the site is stabilized, such that the standing vegetation cover is equal to or greater than 10 percent, where threshold friction velocity, corrected for non-erodible elements, is equal to or greater than 43 cm/second.

1. For standing vegetation that consists of large, separate vegetative structures (e.g., shrubs and sagebrush), select a survey area that represents a random portion of the overall conditions of the site that is the shape of a square with sides equal to at least 10 times the average height of the vegetative structures. For smaller standing vegetation, select a survey area of three feet by three feet.
2. Count the number of standing vegetative structures within the survey area. Count vegetation, which grows in clumps as a single unit. Where different types of vegetation exist and/or vegetation of different height and width exists, separate the vegetative structures with similar dimensions into groups. Count the number of vegetative structures in each group within the survey area. Select an individual structure within each group that represents the average height and width of the vegetation in the group. If the structure is dense (e.g., when looking at it vertically from base to top there is little or zero open air space within its perimeter), calculate and record its frontal silhouette area, according to Equation 6 of this appendix. Also, use Equation 6 of this appendix to estimate the average height and width of the vegetation if the survey area is larger than nine square feet. Otherwise, use the procedure in A16.1.F.3 to calculate frontal silhouette area. Then calculate the percent cover of standing vegetation according to Equations 7, 8, and 9 of this appendix. Ensure consistent units of measurement (e.g., square meters or square inches) when calculating percent cover.

Table 4. Equations 6-13.

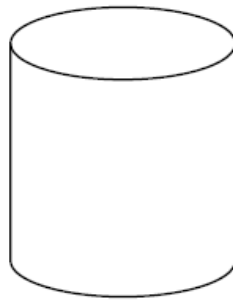
Equation 6	<u>Average Height × Average Width = Frontal Silhouette Area.</u>
Equation 7	<u>Frontal Silhouette Area of Individual Vegetative Structures × Number of Vegetation Structures Per Group = Frontal Silhouette Area of Group.</u>
Equation 8	<u>Frontal Silhouette Area of Group 1 + Front Silhouette Area of Group 2 (etc.) = Total Frontal Silhouette Area.</u>
Equation 9	<u>(Total Frontal Silhouette Area ÷ Survey Area) × 100 = Percent Cover of Standing Vegetation.</u>

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Equation 10	$[(\text{Number of Circled Gridlines within the Outlined Area Counted That Are Not Covered by Vegetation} \div \text{Total Number of Gridline Intersections within the Outlined Area}) \times 100] = \text{Percent Open Space.}$
Equation 11	$100 - \text{Percent Open Space} = \text{Percent Vegetative Density.}$
Equation 12	$\text{Percent Vegetative Density} \div 100 = \text{Vegetative Density.}$
Equation 13	$\text{Maximum Height} \times \text{Maximum Width} \times (\text{Vegetative Density} \div 0.4)^{0.5} = \text{Frontal Silhouette Area.}$

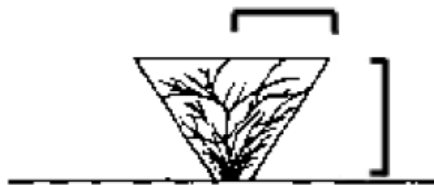
3. **Vegetative Density Factor:** Cut a single, representative piece of vegetation (or consolidated vegetative structure) within one cm of surface soil. Using a white paper grid or transparent grid over white paper, lay the vegetation flat on top of the grid (but do not apply pressure to flatten the structure). Grid boxes of 1-inch or ½-inch squares are sufficient for most vegetation when conducting this procedure. Using a marker or pencil, outline the shape of the vegetation along its outer perimeter, according to Figure A, B, or C of this appendix, as appropriate. (Note: Figure B differs from Figure C primarily in that the width of vegetation in Figure B is narrow at its base and gradually broadens to its tallest height. In Figure C, the width of the vegetation generally becomes narrower from its midpoint to its tallest height.) Remove the vegetation, count and record the total number of gridline intersections within the outlined area, but do not count gridline intersections that connect with the outlined shape. There must be at least 10 gridline intersections within the outlined area and preferably more than 20, otherwise, use smaller grid boxes. Draw small circles (no greater than a 3/32-inch diameter) at each gridline intersection counted within the outlined area. Replace the vegetation on the grid within its outlined shape. From a distance of approximately two feet directly above the grid, observe each circled gridline intersection. Count and record the number of circled gridline intersections that are not covered by any piece of the vegetation. To calculate percent vegetative density, use Equations 10 and 11 of this appendix. If the percent vegetative density is equal to or greater than 30, use an equation (one of the Equations 14, 15, or 16 of this appendix) that matches the outline used to trace the vegetation (Figure A, B, or C) to calculate its frontal silhouette area. If percent vegetative density is less than 30, use Equations 12 and 13 of this appendix to calculate the frontal silhouette area.

Figure A - Cylinder, Equation 14.



$$\text{Frontal Silhouette Area} = \text{Maximum Height} \times \text{Maximum Width} \quad \text{Eq. 14}$$

Figure B - Inverted Cone, Equation 15.



$$\text{Frontal Silhouette Area} = \text{Maximum Height} \times \frac{1}{2} \text{ Maximum Width} \quad \text{Eq. 15}$$

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Figure C - Upper Sphere, Equation 16.



$$\text{Frontal Silhouette Area} = (3.14 \times \text{Maximum Height} \times \frac{1}{2} \text{Maximum Width}) \div 2 \quad \text{Eq. 16}$$

G. Rock Test Method: The Rock Test Method, which is similar to the process outlined in A16.1.D. (Determination of Threshold Friction Velocity [TFV]), examines the wind-resistance effects of rocks and other non-erodible elements on disturbed surfaces. Non-erodible elements are objects larger than one cm in diameter that remain firmly in place even on windy days. Typically, non-erodible elements include rocks, stone, glass fragments, and hard-packed clumps of soil lying on or embedded in the surface. Vegetation does not count as a non-erodible element in this method. The purpose of this test method is to estimate the percent cover of non-erodible elements on a given surface to see whether such elements take up enough space to offer protection against windblown dust. For simplification, the following test method refers to all non-erodible elements as “rocks”.

1. Select a 1-meter by 1-meter survey area that represents the general rock distribution on the surface. (A 1-meter by 1-meter area is slightly greater than a three-foot by three-foot area). Mark off the survey area by tracing a straight, visible line in the dirt along the edge of a measuring tape or by placing short ropes, yard sticks, or other straight objects in a square around the survey area.
2. Without moving any of the rocks or other elements, examine the survey area. Since rocks > 3/8 inch (1cm) in diameter are of interest, measure the diameter of some of the smaller rocks to get a sense for which rocks need to be considered.
3. Mentally group the rocks > 3/8-inch (one cm) diameter lying in the survey area into small, medium, and large size categories. Or, if the rocks are all approximately the same size, simply select a rock of average size and typical shape. Without removing any of the rocks from the ground, count the number of rocks in the survey area in each group and write down the resulting number.
4. Without removing rocks, select one or two average size rocks in each group and measure the length and width. Use either metric units or standard units. Using a calculator, multiply the length times the width of the rocks to get the average dimensions of the rocks in each group. Write down the results for each rock group.
5. For each rock group, multiply the average dimensions (length times width) by the number of rocks counted in the group. Add the results from each rock group to get the total rock area within the survey area.
6. Divide the total rock area, calculated in A16.1.G.4 by two (to get the frontal area). Divide the resulting number by the size of the survey area (making sure the units of measurement match), and multiply by 100 for percent rock cover. For example, the total rock area is 1,400 square centimeters, divide 1,400 by two to get 700. Divide 700 by 10,000 (the survey area is one meter by one meter, which is 100 centimeters by 100 centimeters or 10,000 square centimeters), and multiply by 100. The result is seven percent rock cover. If rock measurements are made in inches, convert the survey area from meters to inches (one inch = 2.54 centimeters).
7. Select and mark off two additional survey areas and repeat the procedures described in A16.1.G.1 through A16.1.G.8. Make sure the additional survey areas also represent the general rock distribution on the site. Average the percent cover results from all three survey areas to estimate the average percent of rock cover.
8. If the average rock cover is greater than or equal to 10 percent, the surface is stable. If the average rock cover is less than 10 percent, follow the procedures in A16.1.G.9.
9. If the average rock cover is less than 10 percent, the surface may or may not be stable. Follow the procedures in A16.1.D (Determination of Threshold Friction Velocity [TFV]) of this rule and use the results from the rock test method as a correction (i.e., multiplication) factor. If the rock cover is at least one percent, such rock cover helps to limit windblown dust. However, depending on the soil’s ability to release fine dust particles into the air, the percent rock cover may or may not be sufficient enough to stabilize the surface. It is also possible that the soil itself has a high enough TFV to be stable without even accounting for rock cover.
10. After completing the procedures described in A16.1.G.9, use Table 3 of this appendix to identify the appropriate correction factor to the TFV, depending on the percent rock cover. Multiply the correction factor by the TFV value for a final TFV estimate that is corrected for non-erodible elements.

16.2 Visual Opacity Determinations of Emissions from Dust-Generating Operations.

- A. Applicability: This method is applicable for the determination of opacity of fugitive dust plumes from dust-generating operations.

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- B. Principle: The opacity of emissions from sources of visible emissions is determined visually by an observer qualified according to the procedures of A16.2.D.
- C. Procedures: An observer qualified in accordance with A16.2.D shall use the following procedures for visually determining the opacity of emissions:
1. To determine the opacity of non-continuous dust plumes caused by activities including, but not limited to, bulk material loading/unloading, non-conveyorized screening, or trenching with backhoes:
 - a. Position: Stand at least 25 feet from the dust-generating operation in order to provide a clear view of the emissions with the sun oriented in the 140° sector to the back. Choose a discrete portion of the operation for observation, such as the unloading point, not the whole operation. Following the above requirements, make opacity observations so that the line of vision is approximately perpendicular to the dust plume and wind direction. If multiple plumes are involved, do not include more than one plume in the line of sight at one time.
 - b. Initial Fallout Zone: The initial fallout zone within the plume must be identified. Record the distance from the equipment or path that is your identified initial fallout zone. The initial fallout zone is the area where the heaviest particles drop out of the entrained fugitive dust plume. Opacity readings should be taken at the maximum point of the entrained fugitive dust plume that is located outside the initial fallout zone.
 - c. Field records: Note the following on an observational record sheet:
 - (1) Location of dust-generating operation, type of operation, type of equipment in use and activity, and method of control used, if any;
 - (2) Observer's name, certification data and affiliation, a sketch of the observer's position relative to the dust-generating operation, and observer's estimated distance and direction to the location of the dust-generating operation;
 - (3) Time that readings begin, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds); and
 - (4) Color of the plume and type of background.
 - d. Observations: Make opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of vision. Make two observations per discrete activity, beginning with the first reading at zero seconds and the second reading at five seconds. The zero-second observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume, but, instead, observe the plume briefly at zero seconds and then again at five seconds.
 - e. Recording Observations: Record the opacity observations to the nearest five percent on an observational record sheet. Each momentary observation recorded represents the average opacity of emissions for a five-second period. Repeat observations until you have recorded at least a total of 12 consecutive opacity readings. The 12 consecutive readings must be taken within the same period of observation but must not exceed one hour. Observations immediately preceding and following interrupted observations can be considered consecutive (e.g., vehicle traveled in front of path, plume doubled over).
 - f. Data Reduction: Average 12 consecutive opacity readings together. If the average opacity reading equals 20 percent or lower, the dust-generating operation is in compliance.
 2. To determine the opacity of continuous dust plumes caused by equipment and activities including, but not limited to graders, trenchers, paddlewheels, blades, clearing, leveling, and raking:
 - a. Position: Stand at least 25 feet from the dust-generating operation in order to provide a clear view of the emissions with the sun oriented in the 140° sector to the back. Following the above requirements, make opacity observations so that the line of vision is approximately perpendicular to the dust plume and wind direction.
 - b. Dust Plume: Evaluate the dust plume generation and determine if the observations will be made from a single plume or from multiple related plumes.
 - (1) If a single piece of equipment is observed working, then all measurements should be taken off the resultant plume as long as the equipment remains within the 140° sector to the back.
 - (2) If there are multiple related sources or multiple related points of emissions of dust from a particular activity, or multiple pieces of equipment operating in a confined area, opacity readings should be taken at the densest point within the discrete length of equipment travel path within the 140° sector to the back. Readings can be taken for more than one piece of equipment within the discrete length of travel path within the 140° sector to the back.
 - c. Initial Fallout Zone: The initial fallout zone within the plume must be identified. Record the distance from the equipment or path that is your identified initial fallout zone. The initial fallout zone is that area where the heaviest particles drop out of the entrained fugitive dust plume. Opacity readings should be taken at the maximum point of the entrained fugitive dust plume that is located outside the initial fallout zone.
 - d. Field Records: Note the following on an observational record sheet:
 - (1) Location of dust-generating operation, type of operation, type of equipment in use and activity, and method of control used, if any;
 - (2) Observer's name, certification data and affiliation, a sketch of the observer's position relative to the dust-generating operation, and observer's estimated distance and direction to the location of the dust-generating operation; and

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(3) Time that readings begin, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds).

- e. Observations: Make opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of vision. Make opacity observations at a point beyond the fallout zone. The observations should be made at the densest point. Observations will be made every 10 seconds until at least 12 readings have been recorded. Do not look continuously at the plume, but observe the plume momentarily at 10-second intervals. If the equipment generating the plume travels outside the field of observation or if the equipment ceases to operate, mark an "X" for the 10-second interval. Mark an "X" when plumes are stacked or doubled, either behind or in front, or become parallel to line of sight. Opacity readings identified as "X" shall be considered interrupted readings.
- f. Recording Observations: Record the opacity observations to the nearest five percent on an observational record sheet. Each momentary observation recorded represents the average opacity of emissions for a 10-second period.
- g. Data Reduction: Average 12 consecutive opacity readings together. If the average opacity reading equals 20 percent or lower, the dust-generating operation is in compliance.

D. Qualification and Testing

1. Certification Requirements: To receive certification as a qualified observer, a candidate must be tested and demonstrate the ability to assign opacity readings in five percent increments to 25 different black plumes and 25 different white plumes, with an error not to exceed 15% opacity on any one reading and an average error not to exceed 7.5 percent opacity in each category. Candidates shall be tested according to the procedures described in A16.2.D.2. Any smoke generator used pursuant to A16.2.D.2 shall be equipped with a smoke meter which meets the requirements of A16.2.D.3. Certification tests that do not meet the requirements of A16.2.D.2 and A16.2.D.3 are not valid. The certification shall be valid for a period of 6 months, and after each 6-month period the qualification procedures must be repeated by an observer in order to retain certification.
2. Certification Procedure: The certification test consists of showing the candidate a complete run of 50 plumes, 25 black plumes and 25 white plumes, generated by a smoke generator. Plumes shall be presented in random order within each set of 25 black and 25 white plumes. The candidate assigns an opacity value to each plume and records the observation on a suitable form. At the completion of each run of 50 readings, the score of the candidate is determined. If a candidate fails to qualify, the complete run of 50 readings must be repeated in any retest. The smoke test may be administered as part of a smoke school or training program, and may be preceded by training or familiarization runs of the smoke generator, during which candidates are shown black and white plumes of known opacity.
3. Smoke Generator Specifications: Any smoke generator used for the purpose of A16.2.D.2 shall be equipped with a smoke meter installed to measure opacity across the diameter of the smoke generator stack. The smoke meter output shall display in-stack opacity, based upon a path length equal to the stack exit diameter on a full zero percent to 100 percent chart recorder scale. The smoke meter optical design and performance shall meet the specifications shown in Table 5 of this appendix. The smoke meter shall be calibrated as prescribed in A16.2.D.3.a prior to conducting each smoke reading test. At the completion of each test, the zero and span drift shall be checked, and if the drift exceeds plus or minus one percent opacity, the condition shall be corrected prior to conducting any subsequent test runs. The smoke meter shall be demonstrated, at the time of installation, to meet the specifications listed in Table 5 of this appendix. This demonstration shall be repeated following any subsequent repair or replacement of the photocell or associated electronic circuitry, including the chart recorder or output meter, or every six months, whichever occurs first.
 - a. Calibration: The smoke meter is calibrated after allowing a minimum of 30 minutes warm-up by alternatively producing simulated opacity of zero percent and 100 percent. When stable response at zero percent or 100 percent is noted, the smoke meter is adjusted to produce an output of zero percent or 100 percent, as appropriate. This calibration shall be repeated until stable zero percent and 100 percent reading are produced without adjustment. Simulated zero percent and 100 percent opacity values may be produced by alternatively switching the power to the light source on and off while the smoke generator is not producing smoke.
 - b. Smoke Meter Evaluation: The smoke meter design and performance are to be evaluated as follows:
 - (1) Light Source: Verify, from manufacturer's data and from voltage measurements made at the lamp, as installed, that the lamp is operated within plus or minus five percent of the nominal rated voltage.
 - (2) Spectral Response of Photocell: Verify from manufacturer's data that the photocell has a photopic response (i.e., the spectral sensitivity of the cell shall closely approximate the standard spectral-luminosity curve for photopic vision which is referenced in Table 5 of this appendix).
 - (3) Angle of View: Check construction geometry to ensure that the total angle of view of the smoke plume, as seen by the photocell, does not exceed 15°. Calculate the total angle of view (ϕ_v) as follows:
Total Angle of View = $2 \tan^{-1} (d/2L)$
Where:
d = The photocell diameter + the diameter of the limiting aperture; and
L = The distance from the photocell to the limiting aperture. The limiting aperture is the point in the path between the photocell and the smoke plume where the angle of view is most restricted. In smoke generator smoke meters, this is normally an orifice plate.

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(4) Angle of Projection: Check construction geometry to ensure that the total angle of projection of the lamp on the smoke plume does not exceed 15°. Calculate the total angle of projection (ϕp) as follows:

Total Angle of Projection = $2 \tan^{-1} (d/2L)$

Where:

d = The sum of the length of the lamp filament + the diameter of the limiting aperture; and

L = The distance from the lamp to the limiting aperture.

4. Calibration Error: Using neutral density filters of known opacity, check the error between the actual response and the theoretical linear response of the smoke meter. This check is accomplished by first calibrating the smoke meter, according to A16.2.D.3.a and then inserting a series of three neutral-density filters of nominal opacity of 20 percent, 50 percent, and 75 percent in the smoke meter path length. Use filters calibrated within plus or minus two percent. Care should be taken when inserting the filters to prevent stray light from affecting the meter. Make a total of five nonconsecutive readings for each filter. The maximum opacity error on any one reading shall be plus or minus three percent.
5. Zero and Span Drift: Determine the zero and span drift by calibrating and operating the smoke generator in a normal manner over a 1-hour period. The drift is measured by checking the zero and span at the end of this period.
6. Response Time: Determine the response time by producing the series of five simulated zero percent and 100 percent opacity values and observing the time required to reach stable response. Opacity values of zero percent and 100 percent may be stimulated by alternatively switching the power to the light source off and on while the smoke generator is not operating.

Table 5. Smoke Meter Design and Performance Standard.

Parameter	Specification
Light source	Incandescent lamp operated at nominal rated voltage.
Spectral response of photocell	Photopic (daylight spectral response of the human eye).
Angle of view	15° maximum total angle.
Angle of projection	15° maximum total angle.
Calibration error	Plus or minus three percent opacity, maximum.
Zero and span drift	Plus or minus one percent opacity, 30 minutes.
Response time	Less than or equal to five seconds.

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Volume 32, Issue 41, October 9, 2026

NOTICES OF PROPOSED EXPEDITED RULEMAKING

An agency may conduct expedited rulemaking if the rulemaking 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\(A\)\(1\) through \(8\)](#).

A Notice of Proposed Expedited Rulemaking is filed by the agency and published in the *Register* and is also posted on an agency's website and the Governor's Regulatory Review Council's website to allow for written comments at least 30 days after posting the notice.

An agency shall also respond to written objections to these proposed expedited rules which are filed and published in the *Register*.

Questions about the notice can be answered by the person listed in item #5 of the preamble.

Refer to item #10 of the preamble for information on how to comment on this notice and the close of record to comment.

NOTICE OF PROPOSED EXPEDITED RULEMAKING

TITLE 9. DEPARTMENT OF HEALTH SERVICES

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

File Number: R26-180

PREAMBLE

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

July 16, 2026

- | | |
|--|--------------------------|
| 2. Article, Part, or Section Affected (as applicable) | Rulemaking Action |
|--|--------------------------|

R9-10-2102	Amend
R9-10-2105	Amend
R9-10-2106	Amend
R9-10-2107	Amend
R9-10-2109	Amend
R9-10-2111	Amend
R9-10-2113	Amend
R9-10-2115	Amend
R9-10-2118	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 (A)(17) and 36-136(G)

Implementing statute: A.R.S. §§ 36-405, 36-406, and 36-448.51 through 36-448.55

- 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: 32 A.A.R. 2110; Issue Date: September 4, 2026; Issue Number: 36; File Number: R26-151

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

Name:	Tracy Schmidt
Title:	Deputy Bureau Chief Pain Management Team Lead
Division:	Public Health Licensing
Address:	Arizona Department of Health Services 150 N. 18th Ave., Suite 500

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Phoenix, AZ 85007
Telephone: (602) 364-3030
Email: tracy.schmidt@azdhs.gov
or
Name: Stacie Gravito
Title: Office Chief
Administrative Counsel and Rules
Division: Director's Office
Address: 150 N. 18th Ave., Suite 540
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:**
Arizona Revised Statutes (A.R.S.) § 36-132(A)(1) requires the Arizona Department of Health Services (Department) to protect the health of the people in Arizona. In order to ensure public health, safety, and welfare, A.R.S. §§ 36-405 and 36-406 requires the Department to adopt rules establishing minimum standards and requirements for construction, modification, and licensure of health care institutions. The Department has adopted rules to implement these statutes in Arizona Administrative Code Title 9, Chapter 10, Article 21 for recovery care centers. The Department, in the 2024 five-year-review report, identified that the rules' effectiveness could be improved by making the rules more clear, concise, and understandable. In addition, the Department stated a plan to amend the rules in Article 21 to be more consistent with other residential facilities in Chapter 10. The proposed rules will conform to rulemaking format and style requirements of GRRC and the Office of the Secretary of State.
- 7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
The Department did not complete nor refer to 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: November 9, 2026
- 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:**
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:**
A health care institution license is specific to the licensee, class or subclass of health care institution, facility location, and scope of services provided. As such, a general permit is not applicable and is not used.
- 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.

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- 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 21. RECOVERY CARE CENTERS

Section

R9-10-2102.	Administration
R9-10-2105.	Personnel
R9-10-2106.	Medical Staff
R9-10-2107.	Admission
R9-10-2109.	Transfer
R9-10-2111.	Medical Records
R9-10-2113.	Medication Services
R9-10-2115.	Food Services
R9-10-2118.	Physical Plant Standards

ARTICLE 21. RECOVERY CARE CENTERS

R9-10-2102. Administration

- A. No change
1. No change
 2. No change
 - a. No change
 - b. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
 - a. No change
 - b. No change
 8. No change
- B. No change
1. No change
 2. No change
 3. No change
- C. An administrator shall ensure that:
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to patient care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training required in R9-10-2105(G) including:
 - i. The method and content of cardiopulmonary resuscitation training,
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training,
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training, and
 - iv. The documentation that verifies an individual has received cardiopulmonary resuscitation training;
 - f. ~~Cover first aid training;~~
 - g. Include a method to identify a patient to ensure the patient receives services as ordered;

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- ~~h-g.~~ Cover patient rights including assisting a patient who does not speak English or who has a disability to become aware of patient rights;
- ~~i-h.~~ Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The recovery care center to respond to a patient's complaint;
- ~~j-i.~~ Cover health care directives;
- ~~k-j.~~ Cover medical records, including electronic medical records;
- ~~l-k.~~ Cover a quality management program, including incident reports and supporting documentation;
- ~~m-l.~~ Cover contracted services; and
- ~~n-~~ ~~Cover tissue and organ procurement and transplant; and~~
- ~~o-m.~~ Cover when an individual may visit a patient in a recovery care center;
- 2. Policies and procedures for recovery care services are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover patient screening, admission, transfer, discharge planning, and discharge;
 - b. Cover the provision of recovery care services;
 - c. Include when general consent and informed consent are required;
 - d. Cover prescribing a controlled substance to minimize substance abuse by a patient;
 - e. Cover dispensing, administering, and disposing of medications;
 - f. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - g. Cover infection control; and
 - h. Cover environmental services that affect patient care;
- 3. Policies and procedures are reviewed at least once every three years and updated as needed;
- 4. Policies and procedures are available to personnel members, employees, volunteers, and students; and
- 5. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a recovery care center, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the recovery care center.

R9-10-2105. Personnel

- A. 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 physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services 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 physical health services and behavioral health services 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 physical health services or behavioral health services 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 physical health services or behavioral health services listed in the established job description;
 - 2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures; and
 - 3. Sufficient personnel members are present on a recovery care center's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the recovery care center's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient.
- ~~B. An administrator shall ensure that an individual who is a baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor is under direct supervision as defined in 4 A.A.C. 6, Article 1.~~
- ~~C.B.~~ An administrator shall ensure that a personnel member, or an employee or a volunteer who has or is expected to have direct interaction with a patient, provides evidence of freedom from infectious tuberculosis:
 - 1. On or before the date the individual begins providing services at or on behalf of the recovery care center, and
 - 2. As specified in R9-10-113.
- ~~D.C.~~ An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:

NOTICES OF PROPOSED EXPEDITED RULEMAKING

1. The individual's name, date of birth, and contact telephone number;
2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
3. Documentation of:
 - a. The individual's qualifications, including skills and knowledge applicable to the employee's job duties;
 - b. The individual's education and experience applicable to the employee's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. ~~The individual's compliance with the requirements in A.R.S. § 36-411;~~
 - f. ~~Cardiopulmonary resuscitation training, if required for the individual, according to R9-10-2102(C)(1)(e);~~
 - g. ~~First aid training, if the individual is required to have according to this Article and policies and procedures; and~~
 - h. ~~Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (C)~~ subsection (B).

~~F.D.~~ An administrator shall ensure that personnel records are:

1. Maintained:
 - a. Throughout the individual's period of providing services in or for the recovery care center, and
 - b. For at least 24 months after the last date the individual provided services in or for the recovery care center; and
2. For a personnel member who has not provided physical health services or behavioral health services at or for the recovery care

~~F.E.~~ An administrator shall ensure that:

1. A plan to provide orientation specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;
2. A personnel member completes orientation before providing behavioral health services or physical health services;
3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
4. A director of nursing develops, documents, and implements a plan to provide in-service education specific to the duties of a personnel member;
5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training; and
6. A work schedule ~~of~~ for each personnel member is developed and maintained at the recovery care center for at least 12 months from the date of the work schedule.

~~G.F.~~ An administrator shall ensure that a nursing personnel member:

1. Is 18 years of age or older,
2. Is certified in cardiopulmonary resuscitation within the first month of employment,
3. Maintains current certification in cardiopulmonary resuscitation, and
4. Attends additional orientation that includes patient care and infection control policies and procedures.

R9-10-2106. Medical Staff

A. A governing authority shall require that:

1. The organized medical staff is directly accountable to the governing authority for the quality of care provided by a medical staff member to a patient in a recovery care center;
2. The medical staff bylaws and medical staff regulations are approved according to the medical staff bylaws and governing authority requirements;
3. A medical staff member complies with medical staff bylaws and medical staff regulations;
4. The medical staff includes at least ~~two physicians~~ one physician who ~~have~~ has clinical privileges to admit patients to the recovery care center;
5. A medical staff member is available to direct patient care;
6. Medical staff bylaws or medical staff regulations are established, documented, and implemented for the process of:
 - a. Conducting peer review according to A.R.S. Title 36, Chapter 4, Article 5;
 - b. Appointing members to the medical staff, subject to approval by the governing authority;
 - c. Establishing committees, including identifying the purpose and organization of each committee;
 - d. Appointing one or more medical staff members to a committee;
 - e. Requiring that each patient has a medical staff member who coordinates the patient's care;
 - f. Defining the responsibilities of a medical staff member to provide medical services to the medical staff member's patient;
 - g. Defining a medical staff member's responsibilities for the transfer of a patient;
 - h. Specifying requirements for oral, telephone, and electronic orders, including which orders require identification of the time of the order;
 - i. Establishing a time-frame for a medical staff member to complete a patient's medical record; and
 - j. Establishing criteria for granting, denying, revoking, and suspending clinical privileges; and
7. The organized medical staff reviews the medical staff bylaws and the medical staff regulations at least once every three years and updates the bylaws and regulations as needed.

B. An administrator shall ensure that:

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- ~~1. A medical staff member provides evidence of freedom from infectious tuberculosis as specified in R9-10-113 before providing services at the recovery care center and at least once every 12 months thereafter;~~
- ~~2-1. A record for each medical staff member is established and maintained that includes:~~
 - ~~a. A completed application for clinical privileges,~~
 - ~~b. The dates and lengths of appointment and reappointment of clinical privileges,~~
 - ~~c. The specific clinical privileges granted to the medical staff member including revision or revocation dates for each clinical privilege, and~~
 - ~~d. A verification of current Arizona health care professional active license according to A.R.S. Title 32; and~~
- ~~3-2. Except for documentation of peer review conducted according to A.R.S. § 36-445, a record under subsection (B)(2) is provided to the Department for review:~~
 - ~~a. For a current medical staff member, within 2 hours after the Department's request, or~~
 - ~~b. Within 72 hours after the time of the Department's request if the individual is no longer a current medical staff member.~~

R9-10-2107. Admission

- A.** An administrator shall ensure that a physician only admits patients to the recovery care center who require recovery care services, ~~as defined in A.R.S. § 36-448.51.~~
- B.** No change
 1. No change
 2. No change
 3. No change
 4. No change

R9-10-2109. Transfer

Except for a transfer of a patient due to an emergency, an administrator shall ensure that:

1. A personnel member coordinates the transfer and the services provided to the patient;
2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before the transfer;
 - b. Information from the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains the risks and benefits of the transfer to the patient or the patient's representative; and
3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

R9-10-2111. Medical Records

- A.** An administrator shall ensure that:
 1. A patient's medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a patient's medical record is:
 - a. Recorded only by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical staff according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical staff issuing the order;
 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 5. A patient's medical record is available to an individual:
 - a. Authorized according ~~by~~ to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law;
 6. Policies and procedures that include the maximum time-frame to retrieve an onsite or off-site patient's medical record at the request of a medical staff or authorized personnel member; and
 7. A patient's medical record is protected from loss, damage, or unauthorized use.
- B.** No change
 1. No change
 2. No change
- C.** No change
 1. No change
 - a. No change
 - b. No change

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- c. No change
- d. No change
- 2. No change
- 3. No change
- 4. No change
- 5. No change
- 6. No change
- 7. No change
- 8. No change
- 9. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
- 10. No change
- 11. No change
- 12. No change
- 13. No change
- 14. No change
- 15. No change
- 16. No change
- 17. No change
- 18. No change
- 19. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 20. No change
- 21. No change
- 22. No change
 - a. No change
 - b. No change
 - c. No change
 - i. No change
 - ii. No change
 - d. No change
 - i. No change
 - ii. No change
 - e. No change
 - f. No change

D. No change

R9-10-2113. 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
 - 2. No change
 - a. No change
 - b. No change
- B.** No change
 - 1. No change
 - a. No change
 - b. No change

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- i. No change
 - ii. No change
 - c. No change
 - d. No change
- 2. No change
- 3. No change
 - a. No change
 - b. No change
- C. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - b. No change
 - c. No change
 - d. No change
- D. When medication is stored at a recovery care center, an administrator shall ensure that:
 - 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; ~~and~~
 - d. Storing, inventorying, and dispensing controlled substances; and
 - e. If applicable, donated medicine in compliance with A.R.S. § 32-1909.
- E. No change

R9-10-2115. Food Services

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
- B. No change
 - 1. No change
 - 2. No change
- C. A food service manager 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 patient 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 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 provided by the recovery care center are served according to posted menus;
 - 4. Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp> in alignment with the current Dietary Guidelines for Americans, issued by the U.S. Department of Health and Human Services and the U.S. Department of Agriculture;
 - 5. A patient is provided:
 - a. A diet that meets the patient's nutritional needs and, if applicable, the orders of the patient's physician;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast except as provided in subsection (C)(5)(d);
 - c. The option to have a daily evening snack identified in subsection (C)(5)(d)(ii) or other snack; and
 - d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. A patient agrees; and

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- ii. The patient 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;
- 6. A patient requiring assistance to eat is provided with assistance that recognizes the patient's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
- 7. Water is available and accessible to a patient.

R9-10-2118. Physical Plant Standards

- A. An administrator shall ensure that recovery care center's patient rooms and service areas comply with the applicable physical plant health and safety codes and standards, incorporated by reference in R9-10-104.01, in effect on the date the recovery care center submitted the application packet, including the notarized attestation of architectural plans and specifications to the Department for approval, according to R9-10-104.
- B. No change
 - 1. No change
 - 2. No change
- C. No change

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NOTICES OF PROPOSED EXEMPT RULEMAKING

Volume 32, Issue 41, October 9, 2026

NOTICES OF PROPOSED EXEMPT RULEMAKING

An agency shall prepare and submit a Notice of Proposed Exempt Rulemaking to be published in the *Register* as specified in the Arizona Administrative Procedure Act (APA), by the Arizona State Legislature in statute, or under a referendum or initiative passed into law by Arizona voters.

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

Notices of Proposed Exempt Rulemaking as published in this section have been proposed under specific conditions, such as requiring the notice to be published in the *Register* or on the agency's website, or requiring for written comments, oral proceedings, or a public hearings on the proposed rule.

The authority authorizing the exemption is provided under item #3 of the preamble.

Questions about the notice can be answered by the person listed in item #5 of the preamble.

NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

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

File Number: R26-181

PREAMBLE

1. **Permission to proceed with this exempt rulemaking was granted under A.R.S. § 41-1039 by the governor on:**
September 15, 2026
2.

Article, Part, or Section Affected (as applicable)	Rulemaking Action
R9-22-1201	Amend
R9-22-1202	Repeal
R9-22-1203	Amend
R9-22-1204	Amend
R9-22-1205	Amend
R9-22-1206	Amend
R9-22-1207	Renumber
R9-22-1207	New Section
R9-22-1208	New Section
R9-22-1209	Renumber
R9-22-1209	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. § 36-2907
Implementing statute: A.R.S. § 36-2907
Statute or session law authorizing the exemption: Laws, 2026, Ch. 132, § 19
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 exempt rule:**
Notice of Exempt Rulemaking Docket Opening: 32 A.A.R. 2516, October 9, 2026 (*in this issue*); File Number: R26-183
5. **The agency's contact person who can answer questions about the rulemaking:**
Name: Sam McCue
Title: Senior Rules Analyst
Division: AHCCCS Office of the General Counsel
Address: 150 N. 18th Ave.
Phoenix, AZ 85007

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Telephone: (602) 417-4232
Fax: (602) 253-9115
Email: AHCCCSRules@azahcccs.gov
Website: www.azahcccs.gov

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

AHCCCS Administration proposes to amend A.A.C. Title 9, Chapter 22, Article 12 (Behavioral Health Services) to include provisions related to coverage of Applied Behavior Analysis (ABA) services to members. The proposed amendments to Title 9, Chapter 22, Article 12 of the Arizona Administrative Code are necessary to outline service provisions for ABA services covered by AHCCCS for AHCCCS acute care and ALTCS members, as well as KidsCare members. The proposed exempt include:

- Adding "ABA" as an explicitly covered service when referencing "behavioral health services."
- Amending rules to add a new subsection specifying ABA as a service covered subject to limitations and exclusions contained in Articles 2 and 12.
- Amending rules to add a section on ABA services to identify the scope of services related to ABA, including covered services, eligibility, and referral procedures.
- Adding a new section for ABA provider supervision requirements and prior authorization and reauthorization of continuing services.
- Adding a new section to specify qualifications of professionals and paraprofessionals providing ABA services, requirements for ABA assessments and treatment plans, requirements for parent and caregiver participation in treatment, and requirements for reauthorization of continuing services.

AHCCCS further proposes to update Article 12 by repealing R9-22-1202 as the Division of Behavioral Health Services (DBHS) is no longer at Arizona Department of Health Services (ADHS), update definitions, and make technical and clarifying changes to the current rules. This rulemaking also incorporates stakeholder input.

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:

Not applicable

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 proposed exempt rules are estimated to have an annualized average impact of approximately \$46.5 million total funds in medical expenditure savings collectively for the Arizona Medicaid and KidsCare programs, with approximately \$17.8 million in estimated total funds savings attributable to the AHCCCS Complete Care, KidsCare and Children's Health Plan populations, and approximately \$28.7 million total funds in estimated savings attributable to the Arizona Long Term Care System Developmentally Disabled population.

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

Name: Sam McCue
Title: Senior Rules Analyst
Division: AHCCCS Office of the General Counsel
Address: 150 N. 18th Ave.
Phoenix, AZ 85007
Telephone: (602) 417-4232
Fax: (602) 253-9115
Email: AHCCCSRules@azahcccs.gov
Website: www.azahcccs.gov

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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:

AHCCCS is providing a 30-day time frame for submission of public comments regarding the proposed exempt rulemaking beginning September 17, 2026, the date this Notice of Proposed Exempt Rulemaking was posted on the AHCCCS website at www.azahcccs.gov until October 17, 2026. All public comments are to be submitted to the person listed under item #5. Under Laws, 2026, Ch. 132, § 19, AHCCCS is exempt from the Administrative Procedures Act, Arizona Revised Statutes, Title 41, Chapter 6, and no oral proceeding will be conducted.

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:

There are no other matters prescribed. This rulemaking is exempt from the Administrative Procedures Act, Arizona Revised Statutes, Title 41, Chapter 6, and not subject to Council review.

- a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
Not applicable
- b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
Not applicable
- c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitive-ness of business in this state to the impact on business in other states:**
Not applicable

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

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

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

ARTICLE 12. BEHAVIORAL HEALTH SERVICES

Section

- R9-22-1201. Definitions
R9-22-1202. ~~ADHS, Contractor, Administration and CRS Responsibilities~~ Repealed
R9-22-1203. Eligibility for Covered Services
R9-22-1204. General Service Requirements
R9-22-1205. Scope and Coverage of Behavioral Health Services
R9-22-1206. ~~Repealed Applied Behavior Analysis Services - Eligibility and Referral~~
R9-22-1207. Applied Behavior Analysis Services - Provider Qualifications and Supervision Requirements
R9-22-1208. Applied Behavior Analysis Services - Assessment, Treatment, Authorization and Continuing Services
~~R9-22-1207-R9-22-1209.~~ General Provisions for Payment

ARTICLE 12. BEHAVIORAL HEALTH SERVICES

R9-22-1201. Definitions

The following definitions apply to this Article:

1. “ABA supervisee” means an ABA technician, ABA trainee, assistant behavior analyst, or a BCBA awaiting Arizona licensure, who implements an ABA treatment plan under the direction and supervision of an LBA as described in A.R.S. § 32-2091 and applicable Arizona Board of Psychologist Examiners rules and guidance.
“Adult behavioral health therapeutic home” as defined in 9 A.A.C. 10, Article 1.
2. “Agency” for the purposes of this Article means a behavioral health facility, a classification of a health care institution, including a mental health treatment agency defined in A.R.S. § 36-501, that is licensed to provide behavioral health services ~~according to~~ under A.R.S. Title 36, Chapter 4.
3. “Applied behavior analysis” or “ABA” means an evidence-based behavior therapy that uses knowledge of how behavior is learned and influenced by environmental consequences to improve functioning by assessing environmental influences on behaviors and implementing assessment-based interventions using positive reinforcement and other behavioral strategies to change

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socially significant behaviors. ABA does not include cognitive therapies, psychological testing, neuropsychology, psychotherapy, sex therapy, psychoanalysis, hypnotherapy or long-term counseling as treatment modalities.

4. “Applied behavior analysis technician” or “ABA technician” means a credentialed paraprofessional who implements an ABA treatment plan under the close, ongoing supervision of an LBA.
5. “Applied behavior analysis trainee” or “ABA trainee” means a matriculated graduate student or other trainee whose activities are part of a defined ABA program of study, practicum, intensive practicum, or supervised independent fieldwork who practices under the direct supervision of an LBA consistent with the standards set by a nationally recognized Behavior Analyst Certification Board as determined by the Arizona Board of Psychologist Examiners and A.R.S. § 32-2091.08(3).
6. “Assessment” means an analysis of a patient’s member’s need for physical health services, ABA services, or behavioral health services to determine which services a health care institution or service provider will provide to the patient: member.
7. “Assistant behavior analyst” means a person with undergraduate-level board certification in behavior analysis who delivers ABA services under the supervision of an LBA.
8. “Behavior management services” means services that assist the a member in carrying out daily living tasks and other activities essential for living in the community, including personal care services.
9. “Behavioral health therapeutic home care services” means interactions that teach the client a member living, social, and communication skills to maximize the client’s member’s ability to live and participate in the community and to function independently, including assistance in the self-administration of medication and any ancillary services indicated by the client’s member’s treatment plan, as appropriate.
10. “Behavioral health services” means medical services, nursing services, health-related services, ABA services, or ancillary services provided to an individual a member to address the individual’s member’s behavioral health issue.
11. “Behavioral health technician” means an individual who is not a behavioral health professional who provides behavioral health services at or for a health care institution according to the health care institution’s policies and procedures that:
If the behavioral health services were provided in a setting other than a licensed health care institution, the individual person would be required to be licensed as a behavioral professional under A.R.S. Title 32, Chapter 33; and
Are provided with clinical oversight by a behavioral health professional: a person who provides services to address a behavioral health issue as described in A.A.C. R9-10-101.
12. “Board-Certified Behavior Analyst” or “BCBA” means a person board-certified as a behavior analyst by the national Behavior Analyst Certification Board as defined under A.A.C. R4-26-404.
13. “Case management” for the purposes of this Article, means services and activities that enhance treatment, compliance, and effectiveness of treatment.
14. “Case supervision” means the oversight activities conducted by an LBA to ensure that ABA services are clinically appropriate, effective, and delivered with fidelity according to the member’s medical record and as required by this Article. Case supervision includes both direct and indirect ABA supervision.
15. “Certified psychiatric nurse practitioner” means a registered nurse practitioner who meets the psychiatric specialty area requirements under A.A.C. R4-19-505(C).
“Clinical oversight” means as described under 9 A.A.C. 10.
16. “Cost avoid” means to avoid payment of a third-party liability claim when the probable existence of third-party liability has been established under 42 CFR 433.139(b).
17. “Court-ordered evaluation” has means the same meaning as “evaluation” in A.R.S. § 36-501.
“Court-ordered pre-petition screening” has the same meaning as “pre-petition screening” in A.R.S. § 36-501.
“Court-ordered treatment” means treatment provided according to A.R.S. Title 36, Chapter 5.
“Crisis services” means immediate and unscheduled behavioral health services provided to a patient to address an acute behavioral health issue affecting the patient.
18. “Direct supervision” has means the same meaning as “supervision” in A.R.S. § 36-401.
“Emergency medical services provider” has the same meaning as in A.R.S. § 36-2201.
“Health care institution” has the same meaning as defined in A.R.S. § 36-401.
“Health care practitioner” means a:
 - Physician;
 - Physician assistant;
 - Nurse practitioner; or

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Other individual licensed and authorized by law to use and prescribe medication and devices, as defined in A.R.S. § 32-1901.

19. “Health plan” means an organization or entity that has a prepaid capitated contract with AHCCCS as described in A.R.S. §§ 36-2904, 36-2940, 36-2944, or A.R.S. Title 36, Chapter 34 to provide goods and services to members either directly or through sub-contracts with providers, in conformance with contractual requirements and federal and state law.
20. “Indirect ABA supervision” means LBA oversight activities performed without a member or member's caregiver present, including:
- a. Reviewing and analyzing behavioral data gathered by an ABA supervisee during a treatment session;
 - b. Reviewing ABA supervisee session note documentation;
 - c. Training and providing clinical direction to an ABA supervisee;
 - d. Coordinating the member's care with other professionals;
 - e. Developing and revising a treatment plan, intervention protocol, transition plan, or discharge plan;
 - f. Preparing a progress report; and
 - g. Team consultation.
21. “Licensed behavior analyst” or “LBA” means a person licensed to practice behavior analysis under A.R.S. Title 32, Chapter 19.1, Article 4.
“Licensee” means the same as in 9 A.A.C. 10, Article 1.
22. “Medical practitioner” means a physician, physician assistant, or nurse practitioner.
23. “Partial care” means a day program of services provided to individual members or groups a member or group that is designed to improve the ability of a person to function in a community, and includes basic, therapeutic, and medical day programs.
24. “Physician assistant” means the same as in A.R.S. § 32-2501 a person licensed to practice under A.R.S. Title 32, Chapter 25, except that when providing a behavioral health service, the a physician assistant shall be supervised by an AHCCCS-registered psychiatrist.
“Psychiatrist” means a physician who meets the licensing requirements under A.R.S. § 32-1401 or a doctor of osteopathy who meets the licensing requirements under A.R.S. § 32-1800, and meets the additional requirements of a psychiatrist under A.R.S. § 36-501.
“Psychologist” means a person who meets the licensing requirements under A.R.S. §§ 32-2061 and 36-501.
“Qualified behavioral health service provider” means a behavioral health service provider that meets the requirements of R9-22-1206.
25. “Respite” means a period of care and supervision of a member to provide rest or relief to a family member or other person caring for the member. Respite provides activities and services to meet the social, emotional, and physical needs of the member during respite.
26. “TRBHA” or “Tribal Regional Behavioral Health Authority” means a Native American tribe under contract with ADHS/DBHS the Administration to coordinate the delivery of behavioral health services to eligible and enrolled members of the federally-recognized a federally recognized tribal nation.

R9-22-1202. ~~ADHS, Contractor, Administration and CRS Responsibilities Repealed~~

- ~~**A.** ADHS responsibilities. ADHS is responsible for payment of behavioral health services provided to members, except as specified under subsection (D). ADHS' responsibility for payment of behavioral health services includes claims for inpatient hospital services, which may include physical health services, when the principal diagnosis on the hospital claim is a behavioral health diagnosis. Behavioral health diagnoses are identified as “mental disorders” in the latest International Classification of Diseases (ICD) code set as required by AHCCCS claims and encounters.~~
- ~~**B.** ADHS/DBHS may contract with a TRBHA for the provision of behavioral health services for American Indian members. American Indian members may receive covered behavioral health services:~~
- ~~1. From an IHS or tribally operated 638 facility;~~
 - ~~2. From a TRBHA, or~~
 - ~~3. From a RBHA.~~
- ~~**C.** Contractor responsibilities. A contractor shall:~~
- ~~1. Refer a member to a RBHA under the contract terms;~~
 - ~~2. Provide EPSDT developmental and behavioral health screening as specified in R9-22-213;~~
 - ~~3. Coordinate a member's transition of care and medical records; and~~
 - ~~4. Be responsible for providing covered inpatient hospital services, which may include behavioral health inpatient hospital services, when the principal diagnosis on the hospital claim is not a behavioral health diagnosis.~~

~~**D.** Administration and CRS responsibilities.~~

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1. ~~The Administration shall be responsible for payment of behavioral health services provided to an ALTCS FFS or an FES member and for behavioral health services provided by IHS and tribally operated 638 facilities. The Administration is also responsible for payment of behavioral health services provided to these members during prior quarter coverage.~~
2. ~~CRS shall be responsible for payment of behavioral health services provided to members enrolled with CRS.~~

R9-22-1203. Eligibility for Covered Services

Title XIX members. A member determined eligible under A.R.S. § 36-2901(6)(a) or (g) except for the failure to meet U.S. citizenship or qualified alien status requirements, shall receive medically necessary covered services under ~~Article 12 and Article 2~~, Articles 2 and 12.

R9-22-1204. General Service Requirements

- A. ~~Services:~~ Behavioral health services include mental health, ABA, substance abuse, and physical services. Medically necessary services shall be covered and service requirements met as described under ~~Article 2 and Article 5~~, Articles 2 and 5.
- B. ~~Notification to Administration for American Indians enrolled with a tribal contractor.~~ A provider shall notify the Administration no later than 72 hours after an American Indian member enrolled with a ~~tribal contractor~~ TRBHA presents to a behavioral health hospital for inpatient emergency behavioral health services.
- C. ~~Restrictions and limitations:~~ Room and board is not a covered service unless provided in a behavioral health inpatient facility under R9-22-1205.

R9-22-1205. Scope and Coverage of Behavioral Health Services

- A. Inpatient behavioral health services. The following inpatient services are covered subject to ~~the~~ limitations and exclusions in ~~this Article and Article 2~~, Articles 2 and 12.
 1. Covered inpatient behavioral health services include all behavioral health services, medical detoxification, accommodations and staffing, supplies, and equipment, if the service is provided under the direction of a physician in a Medicare-certified:
 - a. General acute care hospital;
 - b. Inpatient psychiatric unit in a general acute care hospital;
 - c. Behavioral health hospital.
 2. Inpatient service limitations:
 - a. Inpatient services, other than emergency services specified in this Section, are not covered unless prior authorization is obtained.
 - b. Inpatient services and room and board are reimbursed on a per diem basis. The per diem rate includes all services, except ~~the following licensed or certified providers may bill independently for services:~~ services provided by the following AHC-CCS-registered providers when submitting claims as independent billers:
 - i. A ~~licensed~~ psychiatrist;
 - ii. A certified psychiatric nurse practitioner;
 - iii. A ~~licensed~~ physician assistant;
 - iv. A ~~licensed~~ psychologist;
 - v. A licensed clinical social worker;
 - vi. A licensed marriage and family therapist;
 - vii. A licensed professional counselor;
 - viii. A licensed independent ~~substance abuse~~ addiction counselor; and
 - ix. A medical practitioner.
- B. ~~Behavioral Health Inpatient health inpatient~~ facility for children. Services provided in a ~~Behavioral Health Inpatient behavioral health inpatient~~ facility for children as defined in 9 A.A.C. 10, Article 3 are covered subject to the limitations and exclusions under this Article.
 1. ~~Behavioral Health Inpatient health inpatient~~ facility for children services are not covered unless provided under the direction of a licensed physician in a licensed ~~Behavioral Health Inpatient behavioral health inpatient~~ facility for children accredited by an AHCCCS-approved accrediting body as specified in contract.
 2. Covered ~~Behavioral Health Inpatient behavioral health inpatient~~ facility for children services include room and board and treatment services for behavioral health and substance abuse conditions.
 3. ~~Inpatient Behavioral Health Inpatient health inpatient~~ facility for children service limitations.
 - a. Services are not covered unless prior authorized, except for emergency services as specified in this Section.
 - b. Services are reimbursed on a per diem basis. The per diem rate includes all services, except ~~the following licensed or certified providers may bill independently for services:~~ services provided by the following AHCCCS-registered providers when submitting claims as independent billers:
 - i. A ~~licensed~~ psychiatrist;
 - ii. A certified psychiatric nurse practitioner;
 - iii. A ~~licensed~~ physician assistant;
 - iv. A ~~licensed~~ psychologist;
 - v. A licensed clinical social worker;
 - vi. A licensed marriage and family therapist;
 - vii. A licensed professional counselor;
 - viii. A licensed independent ~~substance abuse~~ addiction counselor; and
 - ix. A medical practitioner.
 4. The following may be billed independently if prescribed by a provider ~~as specified in this Section~~ who is operating within the scope of practice:

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- a. Laboratory services; and
 - b. Radiology services.
- C. Covered ~~inpatient~~ inpatient sub-acute agency services. Services provided in a ~~an~~ inpatient sub-acute facility as defined in 9 A.A.C. 10, Article 1 are covered subject to the limitations and exclusions under this Article.
 - 1. Inpatient sub-acute facility services are not covered unless provided under the direction of a licensed physician in a ~~an~~ AHCCS-registered, licensed inpatient sub-acute facility that is accredited by an AHCCCS-approved accrediting body.
 - 2. Covered ~~inpatient~~ inpatient sub-acute facility services include room and board and treatment services for behavioral health and substance abuse conditions.
 - 3. Services are reimbursed on a per diem basis. The per diem rate includes all services, except ~~the following licensed or certified providers may bill independently for services:~~ services provided by the following AHCCCS-registered providers when submitting claims as independent billers:
 - a. A ~~licensed~~ psychiatrist;
 - b. A certified psychiatric nurse practitioner;
 - c. A ~~licensed~~ physician assistant;
 - d. A ~~licensed~~ psychologist;
 - e. A licensed clinical social worker;
 - f. A licensed marriage and family therapist;
 - g. A licensed professional counselor;
 - h. A licensed independent ~~substance abuse~~ addiction counselor; and
 - i. A medical practitioner.
 - 4. The following may be billed independently if prescribed by a provider specified in this Section who is operating within the scope of practice:
 - a. Laboratory services; and
 - b. Radiology services.
- D. Behavioral health residential facility services. Services provided in a licensed behavioral health residential facility as defined in 9 A.A.C. 10, Article 1 are covered subject to the limitations and exclusions under this Article.
 - 1. Behavioral health residential facility services are not covered unless provided by a licensed behavioral health residential facility that is an AHCCCS-registered provider.
 - 2. Covered services include all non-prescription drugs as defined in A.R.S. § 32-1901, non-customized medical supplies, and clinical oversight or direct supervision of the behavioral health residential facility staff, ~~whichever is applicable~~. Room and board are not covered services.
 - 3. ~~The following licensed and certified providers may bill independently for services:~~
 - a. A ~~licensed~~ psychiatrist;
 - b. A ~~certified~~ psychiatric nurse practitioner;
 - c. A ~~licensed~~ physician assistant;
 - d. A ~~licensed~~ psychologist;
 - e. A ~~licensed~~ clinical social worker;
 - f. A ~~licensed~~ marriage and family therapist;
 - g. A ~~licensed~~ professional counselor;
 - h. A ~~licensed~~ independent substance abuse counselor and
- E. Partial care. Partial care services are covered subject to the limitations and exclusions in this Article.
 - 1. Partial care services are not covered unless provided by a licensed and AHCCCS-registered behavioral health agency that provides a regularly scheduled day program of individual member, group, or family activities that are designed to improve the ability of the member to function in the community. Partial care services include basic, therapeutic, and medical day programs.
 - 2. ~~Partial care services.~~ Educational services that are therapeutic and are included in the member's behavioral health treatment plan are included in per diem reimbursement for partial care services.
- F. Outpatient services. Outpatient services are covered subject to the limitations and exclusions in ~~this Article and Article 2: Articles 2 and 12.~~
 - 1. Outpatient services include the following:
 - a. Screening provided by a behavioral health professional or a behavioral health technician ~~as defined in R9-22-1201~~;
 - b. A behavioral health assessment provided by a behavioral health professional or a behavioral health technician;
 - c. Counseling including individual therapy, group therapy, and family therapy provided by a behavioral health professional or a behavioral health technician;
 - d. Behavior management services ~~as defined in R9-22-1201~~; and
 - e. Psychosocial rehabilitation services ~~as defined in R9-22-201~~.
 - 2. Outpatient service limitations.
 - a. The following ~~licensed or certified~~ AHCCCS-registered providers may bill independently for outpatient services:
 - i. A ~~licensed~~ psychiatrist;
 - ii. A certified psychiatric nurse practitioner;
 - iii. A ~~licensed~~ physician assistant ~~as defined in R9-22-1201~~;
 - iv. A ~~licensed~~ psychologist;
 - v. A licensed clinical social worker;
 - vi. A licensed professional counselor;
 - vii. A licensed marriage and family therapist;

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- viii. A licensed independent ~~substance abuse~~ addiction counselor; and
 - ix. A medical practitioner; ~~and,~~
 - x. ~~An outpatient treatment center or substance abuse transitional facility licensed under 9 A.A.C. 10, that is an AHC-CCS-registered provider.~~
 - b. A behavioral health practitioner not specified in subsections (F)(2)(a)(i) through (x); ~~(ix)~~ who is contracted with or employed by an AHCCCS-registered behavioral health agency shall not bill independently.
 - G.** ABA services are covered subject to the limitations and exclusions under Articles 2 and 12. In order to be covered, ABA services shall be provided by a qualified service provider under R9-22-1207.
 - G.H.** Emergency behavioral health services are covered subject to the limitations and exclusions under this Article. In order to be covered, behavioral health services shall be provided by a qualified service providers under R9-22-1206. ADHS/DBHS provider. A health plan responsible for the crisis care continuum shall ensure that emergency behavioral health services are available 24 hours per day, seven days per week in each GSA for an emergency behavioral health condition for a non-FES member as defined in R9-22-201.
 - H.I.** Other covered behavioral health services. Other covered behavioral health services include:
 - 1. Case management as defined in 9 A.A.C. 10, Article 1;
 - 2. Laboratory and radiology services for behavioral health diagnosis and medication management;
 - 3. Medication;
 - 4. Monitoring, administration, and adjustment for psychotropic medication and related medications;
 - 5. Respite care as described within in subsection (F); ~~(K)~~;
 - 6. Behavioral health therapeutic home care services provided by a RBHA in a professional foster home defined in 6 A.A.C. 5, Article 58 as defined in A.R.S. § 8-501, or in an adult behavioral health therapeutic home as defined in 9 A.A.C. 10, Article 1; and
 - 7. Other support services to maintain or increase the member's self-sufficiency and ability to live outside an institution.
 - H.J.** Transportation services. Transportation services are covered under R9-22-211.
 - J.K.** Limited Behavioral Health behavioral health services. Respite services are limited to no more than 600 hours per benefit year.
- R9-22-1206. Repeated Applied Behavior Analysis Services – Eligibility and Referral**
- A.** ABA services are a covered benefit for a member diagnosed with a qualifying neurodevelopmental disorder through a comprehensive diagnostic evaluation (CDE), including autism spectrum disorder, for which ABA is an evidence-based treatment.
 - B.** Documentation shall demonstrate clinically significant functional impairment in at least two of the following areas across environments:
 - 1. Communication;
 - 2. Social interaction;
 - 3. Maladaptive, disruptive, or harmful behavior; or
 - 4. Restrictive, repetitive, inflexible or ritualized behavior.
 - C.** ABA services are covered for a member meeting medical necessity standards, regardless of age.
 - D.** A diagnosis of a qualifying neurodevelopmental disorder shall be established through a CDE conducted using evidence-based assessment and standardized assessment tools appropriate to a member's age and presentation, as well as to the relevant professional standards applicable to the evaluating clinician, by one of the following clinicians:
 - 1. Psychiatrist;
 - 2. Neurologist;
 - 3. Psychologist;
 - 4. Developmental pediatrician; or
 - 5. A pediatrician who has completed specialized autism spectrum disorder diagnosis training approved by DES's Division of Development Disabilities.
 - E.** A diagnosis shall be established according to criteria in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) at the time of evaluation and shall include severity level and specifiers as listed in the DSM.
 - F.** If a CDE has not been completed within 12 months due to a lack of qualified clinician availability, ABA services may continue to be authorized if:
 - 1. A member has a scheduled appointment for a CDE or demonstrates placement on a waiting list for a CDE; and
 - 2. A member otherwise meets all medical necessity criteria for continuation of ABA services.
 - G.** A provisional diagnosis of a qualifying neurodevelopmental disorder may be used to establish eligibility for ABA services when:
 - 1. A diagnosis confirmed through a CDE is not yet available;
 - 2. Developmental delays or other symptoms likely to be responsive to ABA services are identified through an evidence-based developmental screening tool; and
 - 3. Awaiting completion of a CDE would result in delayed access to ABA services during a critical period of early development.
 - H.** A provisional diagnosis of a qualifying neurodevelopmental disorder satisfies the diagnostic eligibility requirement for referral to ABA services in lieu of a diagnosis confirmed through a CDE.
 - I.** When a provisional diagnosis serves as the basis for referral to ABA services, a CDE shall be completed as soon as practicable and no later than 12 months after the provisional diagnosis is made to confirm eligibility for continued ABA services.
 - J.** A provisional diagnosis shall not be made solely for the purpose of initiating or continuing ABA services when the available clinical information does not support diagnosis of a qualifying neurodevelopmental disorder.
 - K.** After a qualifying diagnosis is made, referral for an initial assessment for ABA services may be made by a diagnosing clinician, primary care provider, or primary treating behavioral health clinician.
 - 1. A referral is valid for one year.
 - 2. Referral documentation shall include information sufficient to establish:

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- a. Diagnosis;
- b. Functional impairment;
- c. Current services; and
- d. Medical necessity for ABA services.

R9-22-1207. Applied Behavior Analysis Services – Provider Qualifications and Supervision Requirements

- A.** A health plan or provider shall ensure that ABA services are provided, delegated, directed, and supervised as provided in A.R.S. Title 32, Chapter 19.1, and applicable requirements of the Arizona Board of Psychologist Examiners.
- B.** Providers shall conduct and document supervision, training, and treatment fidelity activities sufficient to support medical necessity, quality of care, and compliance with this Article.
- C.** A provider or supervising LBA shall ensure that an ABA supervisee furnishing covered ABA services:
- 1. Complies with A.R.S. Title 32, Chapter 19.1 and applicable requirements of the Arizona Board of Psychologist Examiners.
 - 2. Has, at the time of hire or initial contract and every three years thereafter, successfully completed a nationwide criminal background check that accounts for criminal convictions in Arizona;
 - 3. Has, at the time of hire or initial contract and annually thereafter, successfully completed applicable abuse, neglect, and exploitation registry screenings, including searches of the Arizona Department of Child Safety Central Registry under A.R.S. § 8-804 and the Adult Protective Services Registry under A.R.S. § 46-459;
 - 4. Has submitted all required criminal background screening, and applicable registry screening applications before providing services to a member; and
 - 5. Has been verified as meeting the required criminal background screening, and applicable registry screening requirements before providing services to a member without the direct observation of another staff member whose screening requirements have been verified.
- D.** An ABA provider organization required to comply with statutory fingerprint clearance card requirements is deemed to have met the criminal background check requirement in R9-22-1207(C)(2). The ABA provider organization shall still satisfy the obligation to check the Adult Protective Services Registry and the Department of Child Safety Registry.
- E.** Reimbursement shall be limited to time during which ABA interventions identified in a member's authorized treatment plan are actively being provided.
- F.** A provider shall maintain documentation sufficient to substantiate the amount, duration, and delivery of ABA services billed to the Administration or to a health plan.
- G.** ABA services shall be furnished by a person authorized to provide such services under A.R.S. Title 32, Chapter 19.1 and applicable requirements of the Arizona Board of Psychologist Examiners, including an LBA, a BCBA awaiting Arizona licensure, an assistant behavior analyst, an ABA trainee, and an ABA technician acting within the scope of authority permitted under those requirements.
- H.** Licensed behavior analyst.
- 1. A health plan and provider shall ensure that an LBA furnishing covered ABA services maintains a license to practice behavior analysis under A.R.S. Title 32, Chapter 19.1.
 - 2. A health plan and provider shall maintain documentation demonstrating compliance with the requirements of subsection (C) and shall make such documentation available to the Administration upon request.
 - 3. An LBA shall complete an ABA assessment and develop an individualized treatment plan when ABA services are recommended.
 - 4. An LBA shall be responsible for assessment, treatment planning, clinical oversight, and documentation necessary to support medical necessity, authorization, and delivery of ABA services under this Article.
- I.** BCBA awaiting Arizona licensure. A health plan, provider, or supervising LBA shall ensure that a BCBA awaiting Arizona licensure furnishing covered ABA services:
- 1. Maintains an active behavior analyst certification from the Behavior Analyst Certification Board; and
 - 2. Is actively pursuing licensure as a behavior analyst under A.R.S. Title 32, Chapter 19.1.
- J.** ABA technician. A health plan, provider, or supervising LBA shall ensure that an ABA technician furnishing covered ABA services:
- 1. Obtains and maintains an active ABA technician certification issued by a nationally recognized ABA technician certification organization, within 180 days of hire or by April 30, 2027, whichever is later, unless:
 - a. The certification examination is not available in the technician's primary language and the technician intends to provide services in that language.
 - b. The technician has a documented disability for which the testing entity is unable to provide a reasonable accommodation.
 - c. Documentation supporting the basis for the exemption is maintained by the provider and made available to the Administration or health plan upon request.
 - 2. Upon initial hire if not holding an active certification, has initiated the certification process with the certification organization before providing any member services.
 - 3. Meets the required certification prerequisites before providing services to a member that are not directly observed by a fully certified ABA technician, assistant behavior analyst, BCBA awaiting Arizona licensure, or LBA. Certification prerequisites are determined by the relevant ABA technician certification organization and include:
 - a. Age and educational requirements;
 - b. All required classroom, online, and supervisor-led instruction;
 - c. Experiential learning; and
 - d. Skills competency assessment.
- K.** Supervision. ABA case supervision includes both direct and indirect ABA supervision.

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1. Direct supervision shall be conducted as provided under A.R.S. Title 32, Chapter 19.1 and applicable requirements of the Arizona Board of Psychologist Examiners.
 2. An LBA shall determine the amount and type of case supervision activities performed based on a member's needs and shall meet a minimum ratio of one hour of case supervision by the LBA for every ten hours of direct ABA services provided to the member by an ABA supervisee.
 3. A supervising LBA shall ensure that the case supervision ratio and activities are appropriate to meet a member's needs and that all case supervision activities are documented in the member's medical record and available for review by the Administration and the health plan.
- L. Prior authorization.**
1. Before providing ABA treatment services, a provider shall obtain prior authorization from the Administration or a health plan.
 2. A health plan shall review and determine whether a provider's request for prior authorization meets the Administration's criteria.
 3. A prior authorization request shall be accompanied by a completed ABA assessment and treatment plan dated within 30 days of the request.
 4. A health plan shall ensure that a prior authorization request is processed and addressed and shall authorize ABA services for a maximum of six months at a time.
 5. An ABA provider shall ensure that services are initiated as outlined in the treatment plan within 30 days of prior authorization.
 6. A request for prior authorization that comprises more than 25 hours of ABA treatment provided directly to a member per week, or more than 15 hours per week of ABA treatment provided directly to a member outside of the educational setting for a member enrolled as a full-time student as defined in A.R.S. § 15-901, shall include:
 - a. Additional justification to describe the specific symptomatology that indicates additional hours are medically necessary;
 - b. The specific goals and objectives that address areas of concern;
 - c. The current or future goals the member shall master to demonstrate the ability to transition to a lower level of care; and
 - d. Documentation detailing plans for caregiver training and case supervision by the LBA when any portion of direct ABA treatment services will be provided by ABA supervisees, both of which shall be provided in amounts and frequencies appropriate to the member's clinical presentation and planned treatment intensity.
 - e. When a child member who is at least age 5 before January 1 of a school year is not participating in school due to deferral of school attendance for the purpose of receiving ABA services, LBA documentation shall additionally include:
 - i. The barriers currently preventing meaningful participation in school;
 - ii. How participation in ABA services will address those barriers;
 - iii. The milestones that shall be achieved for the member to successfully transition to school; and
 - iv. Explicit informed consent inclusive of the information provided in subsections (i) through (iii) signed by the member's parent or caregiver.
 7. A member receiving ABA services who has not undergone a CDE shall complete such an evaluation by November 1, 2027, or within 12 months of enrollment with AHCCCS, whichever is later. ABA services shall not be denied, reduced, or terminated solely because the required CDE has not yet been completed, provided documentation demonstrates that the member has a scheduled appointment or is on a waiting list for a CDE.
 8. For a member receiving ABA services on November 1, 2027, who has undergone a CDE by one of the qualified clinicians listed in R9-22-1206(D) that provides a diagnosis of a qualifying neurodevelopmental disorder, an additional CDE shall not be required solely because the existing CDE does not meet all required elements of a CDE described in this Article.
- R9-22-1208. Applied Behavior Analysis Services – Assessment, Treatment, Authorization and Continuing Services**
- A.** A provider or supervising LBA shall maintain documentation demonstrating compliance with criminal background screening and applicable registry screening requirements of R9-22-1207(C) and shall make such documentation available to the Administration or health plan upon request.
- B.** An ABA provider organization shall:
1. Prohibit an ABA supervisee from providing services to a member if background check results contain:
 - a. A conviction for any of the offenses listed in A.R.S. § 41-1758.03(B) or (C);
 - b. A substantiated report of abuse, neglect or exploitation of vulnerable adults listed on the Adult Protective Services Registry under A.R.S. § 46-459; or
 - c. A substantiated report of child abuse or neglect under A.R.S. § 8-804.
 2. Require an ABA supervisee to report immediately to the ABA provider organization if a law enforcement entity has charged the ABA supervisee with any crime listed in A.R.S. § 41-1758.03(B) or (C).
 3. Require an ABA supervisee to report immediately to the ABA provider organization if Adult Protective Services has alleged that the ABA supervisee abused, neglected, or exploited a vulnerable adult.
 4. Require an ABA supervisee to report immediately to the ABA provider organization if the Department of Child Safety has alleged that the ABA supervisee has abused or neglected a child.
- C.** If an ABA provider organization has not completed screening procedures for ABA supervisees currently providing services to members with the provider's organization on or before November 1, 2026, the ABA provider organization shall be granted a 180-day grace period from November 1, 2026 to comply.
- D.** ABA assessment and treatment plan.
1. An LBA shall complete an initial ABA assessment upon referral and reassess a member at least every six months thereafter, or more frequently when clinically indicated.
 2. Total ABA assessment hours shall not exceed 12 hours per assessment, unless additional assessment time is supported by documentation demonstrating medical necessity.

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3. Assessment methods and tools shall be appropriate to a member's age, needs, presentation, and treatment goals and support development of an individualized treatment plan.
 4. An ABA assessment shall include:
 - a. A summary of the findings;
 - b. A statement of whether ABA services are recommended;
 - c. The expected outcomes of ABA services; and
 - d. Documentation supporting medical necessity if ABA services are recommended.
 5. Based on the results of an assessment, an LBA shall develop a person-centered and individualized treatment plan for a member that:
 - a. Is based on the member's identified needs;
 - b. Accounts for other medically necessary services and supports available to the member; and
 - c. Aligns the scope, intensity, and duration of ABA services with the member's functional impairments and treatment goals.
 6. A treatment plan shall include:
 - a. Targeted skills and behaviors;
 - b. Measurable goals and objectives;
 - c. Baseline outcome measures;
 - d. Planned service intensity and treatment setting;
 - e. For services delivered during school hours or in a school setting, LBA documentation shall include:
 - i. Data supporting the clinical necessity of service delivery in that setting;
 - ii. Coordination with educational and clinical providers when appropriate and authorized; and
 - iii. A description of how ABA services complement rather than duplicate services otherwise available through the member's educational program;
 - f. Caregiver participation requirements, when applicable;
 - g. The caregiver training objectives and how caregiver participation supports achievement of treatment goals and generalization of skills across environments, when applicable;
 - h. Care coordination activities necessary to support implementation of the treatment plan, including coordination with other treating providers, caregivers, and other individuals involved in the member's care when appropriate and authorized; and
 - i. Transition and discharge criteria.
- E. Parent and caregiver involvement and training.**
1. Caregiver participation shall be included in the treatment plan in the amount and frequency clinically indicated based on a member's needs, and shall include no less than two hours of caregiver training per month unless:
 - a. A documented clinical rationale supports a lower amount of caregiver training; or
 - b. Documented barriers prevent participation despite reasonable efforts to engage the caregiver.
 2. Caregiver training shall be delivered in a manner that is clinically appropriate to a member's needs and treatment goals.
- F. Authorization for continuing services.**
1. A provider shall request authorization for continuing ABA services before the end of the current authorization period and shall submit documentation supporting continued medical necessity and compliance with this Article under criteria established by the Administration and administered by the health plan when applicable.
 2. A request for continuing ABA services shall include:
 - a. An updated treatment plan;
 - b. Information demonstrating a member's response to treatment;
 - c. Documentation supporting treatment implementation;
 - d. Documentation of caregiver participation when applicable; and
 - e. Documentation of efforts to address barriers that may affect treatment outcomes.
 3. A request for continuing ABA services shall include documentation of services delivered during the previous authorization period.
 4. When delivered services are below 80 percent of the authorized amount, a provider shall document factors affecting service delivery and efforts to address those barriers.
 5. When expected progress toward treatment goals is not achieved, a provider shall:
 - a. Document factors affecting progress;
 - b. Reassess contributing factors;
 - c. Modify treatment interventions when clinically appropriate; and
 - d. Document modifications made to address identified barriers.
 6. When continuing ABA services are requested to maintain a member's level of functioning or prevent deterioration, a provider shall document the clinical basis for continued services and any transition or service reduction efforts previously attempted.
 7. A health plan shall not deny reauthorization of ABA services solely because a member no longer meets diagnostic criteria for autism spectrum disorder when another qualifying diagnosis has been made and the member otherwise meets required medical necessity criteria for continuation of ABA services.
- G. Duration of treatment and discharge.**
1. The duration of ABA services shall be based on a member's needs, response to treatment, and the preferences of the member, parent, caregiver, or health care decision maker, as applicable.
 2. Transition and discharge criteria shall be individualized, measurable, and documented in the treatment plan.
 3. An LBA shall discontinue ABA services when:
 - a. Treatment goals have been achieved or maximum therapeutic benefit has been reached;

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- b. A member is no longer benefiting from services despite clinically appropriate treatment modifications;
- c. Continued services are no longer medically necessary to maintain or prevent deterioration of targeted skills;
- d. Treatment results in persistent worsening of symptoms or behaviors despite clinically appropriate intervention modifications; or
- e. A member's functioning has improved to the extent that continued ABA services are no longer medically necessary.
- 4. Upon a member's discharge, an LBA shall complete a discharge summary and provide the summary to other treating providers when appropriate to support continuity of care. The discharge summary shall include:
 - a. A summary of services provided;
 - b. The member's response to treatment;
 - c. The reason for discharge; and
 - d. Recommendations regarding ongoing service needs, if applicable.

~~R9-22-1207~~R9-22-1209. General Provisions for Payment

- A. Claims submissions.
 - 1. A provider of behavioral health services shall submit a claim for non-emergency behavioral health services provided to a member to the ~~appropriate RBHA~~; health plan.
 - 2. A provider of behavioral health services shall submit a claim for non-inpatient emergency behavioral health services provided to a member to the ~~appropriate RBHA~~; health plan.
 - 3. A provider of behavioral health services shall submit a claim for non-inpatient emergency behavioral health services provided to a member enrolled in a TRBHA to the Administration.
 - 4. A provider of behavioral health services shall submit a claim for non-emergency behavioral health services provided to a member enrolled in a TRBHA to the Administration.
 - 5. A provider of emergency behavioral health services; that are the responsibility of ~~ADHS/DBHS or a contractor~~; health plan shall submit a claim to the entity responsible for emergency behavioral health services under R9-22-210.01(A).
 - 6. A provider shall comply with the ~~time-frames~~ time frames and other payment procedures in Article 7 of this Chapter, if applicable, and A.R.S. § 36-2904.
 - 7. ~~ADHS/DBHS or a contractor, whichever~~ An entity is responsible for covering behavioral health services; shall cost avoid ~~any a~~ behavioral health service ~~claims if it~~ claim if the entity establishes the existence or probable existence of first-party liability or third-party liability.
- B. Prior authorization. Payment to a provider for behavioral health services or items requiring prior authorization may be denied if a provider does not obtain prior authorization from a ~~RBHA, ADHS/DBHS, a TRBHA, the Administration or a contractor~~; health plan.

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NOTICES OF RULEMAKING DOCKET OPENING

The Administrative Procedure Act (APA) requires an agency file a Notice of Rulemaking Docket Opening which outlines its rulemaking intentions under [A.R.S. § 41-1021](#).

A docket opening and Notice of Proposed Rulemaking are often filed at the same time and published in the same *Register* issue.

If a Notice of Proposed Rulemaking is not published in this *Register* that corresponds with a published docket in this week's issue, it simply means the agency has not filed the notice for consideration and public review.

An agency has one year from the publishing of this notice to propose a rule; after one year the docket expires.

Questions about the notice can be answered by the person listed in item #5 of the preamble.

Refer to item #6 in the preamble for information on how to comment on this notice.

NOTICE OF RULEMAKING DOCKET OPENING

**DEPARTMENT OF HEALTH SERVICES
SOBER LIVING HOMES**

File Number: R26-182

1. **Permission to proceed with this docket was granted under A.R.S. § 41-1039 by the governor on:**
July 16, 2026

2. **Title and its heading:**
9. Health Services

Chapter and its heading:
12. Sober Living Homes

Subchapter and its heading (if applicable):
A new Subchapter 12B will be established, tentatively entitled Transitional Housing Facilities.

Article and its heading:
To be determined

Section number:
To be determined

3. **The subject matter of the proposed rule:**
Laws 2025, Ch. 260, through the passage of Senate Bill 1537, created Arizona Revised Statutes (A.R.S.) §§ 36-4201 through 36-4206 which requires the Arizona Department of Health Services (Department) to establish rules for the operation and oversight of transitional housing facilities. Transitional housing facilities provide a place to live and services to support an individual transitioning from incarceration to independent living. After receiving rulemaking authority from the Governor's Office, the Department has begun a rulemaking to specify requirements and minimum standards for licensed transitional housing facilities, consistent with the statutory authority granted to the Department. The rulemaking will include requirements for license applications and fee payments, the creation of policies and procedures to help ensure the health and safety of residents, the training and continued education of facility staff, and the operation of transitional housing facilities. The Department plans to reorganize and rename Title 9, Chapter 12 of the *Arizona Administrative Code* (9 A.A.C. 12), dividing the Chapter into two Subchapters: Subchapter 12A, containing the rules for sober living homes, which are currently in Chapter 12; and Subchapter 12B, containing the new rules for transitional housing facilities.
4. **A citation to all published notices relating to the current proceeding:**
Not applicable
5. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Cindy Graham
Title: Bureau Chief

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Division: Bureau of Behavioral Health Facilities Licensing
Address: Arizona Department of Health Services
150 N. 18th Ave., Suite 420
Phoenix, AZ 85007
Telephone: (602) 542-3422
Email: cindy.graham@azdhs.gov
Or
Name: Stacie Gravito
Title: Chief Administrative Counsel
Division: Office of Administrative Counsel and Rules
Address: Arizona Department of Health Services
150 N. 18th Ave., Suite 540
Phoenix, AZ 85007
Telephone: (602) 542-1020
Email: acr@azdhs.gov

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

Written comments will be accepted at the addresses listed in item #5 until the close of record which has not yet been determined. No oral proceeding has been scheduled at this time.

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

To be announced in subsequent notices.

NOTICE OF EXEMPT RULEMAKING DOCKET OPENING

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

File Number: R26-183

1. Permission to proceed with this docket was granted under A.R.S. § 41-1039 by the governor on:
September 15, 2026

2. Title and its heading:
9. Health Services

Chapter and its heading:
22. Arizona Health Care Cost Containment System – Administration

Article and its heading:
12. Behavioral Health Services

Section number:
R9-22-1201, R9-22-1202, R9-22-1203, R9-22-1204, R9-22-1205, R9-22-1206, R9-22-1207, R9-22-1208, R9-22-1209

3. The subject matter of the exempt rule:
Behavioral Health Services

4. A citation to all published notices relating to the current proceeding:
Notice of Proposed Exempt Rulemaking: 32 A.A.R. 2503, October 9, 2026 (*in this issue*); File Number: R26-181

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

Name: Sam McCue
Title: Senior Rules Analyst
Division: AHCCCS Office of the General Counsel
Address: 150 N. 18th Ave.

NOTICES OF RULEMAKING DOCKET OPENING

Phoenix, AZ 85007
Telephone: (602) 417-4232
Fax: (602) 253-9115
Email: AHCCCSRules@azahcccs.gov
Website: www.azahcccs.gov

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

AHCCCS is providing a 30-day time frame for submission of public comments regarding the proposed exempt rulemaking beginning September 17, 2026, the date the Notice of Proposed Exempt Rulemaking was posted on the AHCCCS website at www.azahcccs.gov until October 17, 2026. All public comments are to be submitted to the person listed under item #5. Under Laws, 2026, Ch. 132, § 19, AHCCCS is exempt from the Administrative Procedures Act, Arizona Revised Statutes, Title 41, Chapter 6, and no oral proceeding will be conducted.

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

Not applicable

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The *Register* is published by volume in a calendar year. Refer to the “Information” pages in the front of each issue for more details.

Abbreviations for rulemaking activity in this Index include:

PROPOSED RULEMAKING

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

SUPPLEMENTAL PROPOSED RULEMAKING

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

FINAL RULEMAKING

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

SUMMARY RULEMAKING

PROPOSED SUMMARY

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

FINAL SUMMARY

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

EXPEDITED RULEMAKING

PROPOSED EXPEDITED

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

SUPPLEMENTAL EXPEDITED

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

FINAL EXPEDITED

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

EXEMPT RULEMAKING

EXEMPT

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

EXEMPT PROPOSED

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

EXEMPT SUPPLEMENTAL PROPOSED

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

FINAL EXEMPT RULEMAKING

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

EMERGENCY RULEMAKING

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

RECODIFICATION OF RULES

RC means Recodified

REJECTION OF RULES

RJ means Rejected by the Attorney General

TERMINATION OF RULES

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

RULE EXPIRATIONS

EXP means Rules have expired
Refer to “emergency expired” under emergency rulemaking

CORRECTIONS

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Arizona Administrative Register
RULES EFFECTIVE DATES CALENDAR

Volume 32, Issue 41, October 9, 2026

RULES EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states 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 notice's preamble for effective dates.

January

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

February

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

March

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

Arizona Administrative Register
RULES EFFECTIVE DATES CALENDAR

April

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

May

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

June

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

Arizona Administrative Register
RULES EFFECTIVE DATES CALENDAR

July

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

August

Date Filed		Effective Date
August 1	effective	September 30
August 2	effective	October 1
August 3	effective	October 2
August 4	effective	October 3
August 5	effective	October 4
August 6	effective	October 5
August 7	effective	October 6
August 8	effective	October 7
August 9	effective	October 8
August 10	effective	October 9
August 11	effective	October 10
August 12	effective	October 11
August 13	effective	October 12
August 14	effective	October 13
August 15	effective	October 14
August 16	effective	October 15
August 17	effective	October 16
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August 23	effective	October 22
August 24	effective	October 23
August 25	effective	October 24
August 26	effective	October 25
August 27	effective	October 26
August 28	effective	October 27
August 29	effective	October 28
August 30	effective	October 29
August 31	effective	October 30

September

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

Arizona Administrative Register
RULES EFFECTIVE DATES CALENDAR

October

Date Filed		Effective Date
October 1	effective	November 30
October 2	effective	December 1
October 3	effective	December 2
October 4	effective	December 3
October 5	effective	December 4
October 6	effective	December 5
October 7	effective	December 6
October 8	effective	December 7
October 9	effective	December 8
October 10	effective	December 9
October 11	effective	December 10
October 12	effective	December 11
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October 15	effective	December 14
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October 25	effective	December 24
October 26	effective	December 25
October 27	effective	December 26
October 28	effective	December 27
October 29	effective	December 28
October 30	effective	December 29
October 31	effective	December 30

November

Date Filed		Effective Date
November 1	effective	December 31
November 2	effective	January 1
November 3	effective	January 2
November 4	effective	January 3
November 5	effective	January 4
November 6	effective	January 5
November 7	effective	January 6
November 8	effective	January 7
November 9	effective	January 8
November 10	effective	January 9
November 11	effective	January 10
November 12	effective	January 11
November 13	effective	January 12
November 14	effective	January 13
November 15	effective	January 14
November 16	effective	January 15
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November 19	effective	January 18
November 20	effective	January 19
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November 24	effective	January 23
November 25	effective	January 24
November 26	effective	January 25
November 27	effective	January 26
November 28	effective	January 27
November 29	effective	January 28
November 30	effective	January 29

December

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

Arizona Administrative Register
RULES EFFECTIVE DATES CALENDAR

REGISTER DEADLINES

The Secretary of State's Office publishes the *Register* weekly. There is a three-week delay between the deadline date to file a notice and the *Register* date in which the notice is published. The weekly deadline dates are listed in the first column and issue dates are provided in the second column. Listed in the third column 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*. Governor Regulatory Review Council meetings and *Register* deadlines do not correlate.

Deadline Date Friday, 5:00 p.m.	<i>Register</i> Publication Date	Oral Proceeding may be scheduled on or after
August 7, 2026	August 28, 2026	September 28, 2026
August 14, 2026	September 4, 2026	October 5, 2026
August 21, 2026	September 11, 2026	October 13, 2026 Later date due to a holiday
August 28, 2026	September 18, 2026	October 19, 2026
September 4, 2026	September 25, 2026	October 26, 2026
September 11, 2026	October 2, 2026	November 2, 2026
September 18, 2026	October 9, 2026	November 9, 2026
September 25, 2026	October 16, 2026	November 16, 2026
October 2, 2026	October 23, 2026	November 23, 2026
October 9, 2026	October 30, 2026	November 30, 2026
October 16, 2026	November 6, 2026	December 7, 2026
October 23, 2026	November 13, 2026	December 14, 2026
October 30, 2026	November 20, 2026	December 21, 2026
November 6, 2026	November 27, 2026	December 28, 2026
November 13, 2026	December 4, 2026	January 4, 2027
November 20, 2026	December 11, 2026	January 11, 2027
November 27, 2026	December 18, 2026	January 19, 2027 Later date due to a holiday
December 4, 2026	December 25, 2026	January 25, 2027
December 11, 2026	January 1, 2027	February 1, 2027
December 18, 2026	January 8, 2027	February 8, 2027
December 24, 2026 Early date due to a holiday	January 15, 2027	February 16, 2027
December 31, 2026 Early date due to a holiday	January 22, 2027	February 22, 2027
January 8, 2027	January 29, 2027	March 1, 2027
January 15, 2027	February 5, 2027	March 8, 2027
January 22, 2027	February 12, 2027	March 15, 2027
January 29, 2027	February 19, 2027	March 22, 2027
February 5, 2027	February 26, 2027	March 29, 2027
February 12, 2027	March 5, 2027	April 5, 2027
February 19, 2027	March 12, 2027	April 12, 2027
February 26, 2027	March 19, 2027	April 19, 2027
March 5, 2027	March 26, 2027	April 26, 2027
March 12, 2027	April 2, 2027	May 3, 2027
March 19, 2027	April 9, 2027	May 10, 2027

GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES

Volume 32, Issue 41, October 9, 2026

GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES

MEETING DATES ARE SUBJECT TO CHANGE

The deadlines provided in the following table apply to all Five-Year Review Reports and any rulemaking notice submitted for review to the Governor's Regulatory Review Council (Council). The Office publishes these deadlines under A.R.S. § [41-1013](#)(B)(15).

Council meetings and *Register* deadlines do not correlate.

All rulemaking notices submitted for review 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 the Council's [website](#).

File Number: M25-79

DEADLINE FOR PLACEMENT ON AGENDA Materials must be submitted by 5 p.m. on dates listed in this column as a deadline for placement on a particular agenda. Placement on a par- ticular agenda is not guaran- teed.	DEADLINE FOR FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
Tuesday March 24, 2026	Tuesday April 21, 2026	Tuesday April 28, 2026	Tuesday May 5, 2026
Tuesday April 21, 2026	Tuesday May 19, 2026	Wednesday May 27, 2026	Tuesday June 2, 2026
Tuesday May 19, 2026	Tuesday June 23, 2026	Tuesday June 30, 2026	Tuesday July 7, 2026
Tuesday June 23, 2026	Tuesday July 21, 2026	Tuesday July 28, 2026	Tuesday August 4, 2026
Tuesday July 21, 2026	Tuesday August 18, 2026	Tuesday August 25, 2026	Tuesday September 1, 2026
Tuesday August 18, 2026	Tuesday September 22, 2026	Tuesday September 29, 2026	Tuesday October 6, 2026
Tuesday September 22, 2026	Tuesday October 20, 2026	Tuesday October 27, 2026	Tuesday November 3, 2026
Tuesday October 20, 2026	Tuesday November 17, 2026	Tuesday November 24, 2026	Tuesday December 1, 2026
Tuesday November 17, 2026	Tuesday December 22, 2026	Tuesday December 29, 2026	Tuesday January 5, 2027
Tuesday December 22, 2026	Tuesday January 19, 2027	Tuesday January 26, 2027	Tuesday February 2, 2027