

DEPARTMENT OF ENVIRONMENTAL QUALITY (F-17-0705)

Title 18, Chapter 7, Article 2, Soil Remediation Standards; Article 3, Prospective Purchaser Agreement; Article 5, Voluntary Remediation Program; Article 6, Declaration of Environmental Use Restriction Fee



**GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT**

MEETING DATE: July 6, 2017

AGENDA ITEM: E-6

TO: Members of the Governor's Regulatory Review Council

FROM: Justin Larson, Legal Intern

DATE : June 20, 2017

SUBJECT: DEPARTMENT OF ENVIRONMENTAL QUALITY (F-17-0705)
Title 18, Chapter 7, Article 2, Soil Remediation Standards; Article 3,
Prospective Purchaser Agreement; Article 5, Voluntary Remediation Program;
Article 6, Declaration of Environmental Use Restriction Fee

The Department of Environmental Quality ("Department") is established "to consolidate and focus responsibility for environmental management and administration of water quality, air quality, solid waste and hazardous waste regulation with the goal of increasing effectiveness, efficiency and public acceptance of environmental regulation." Laws 2009, Ch. 23, § 3. This report covers 24 sections and two (2) appendices in A.A.C. Title 18, Chapter 7.

Article 2 provides standards and procedures applicable to remedial actions including soil and groundwater; Article 3 establishes fees and processes by which applicants for Prospective Purchaser Agreements ("PPAs") reimburse the Department; Article 5 establishes fees and processes for participants in the Voluntary Remediation Program ("VRP"); and Article 6 establishes fees and processes associated with obtaining a Declaration of Environmental Use Restriction ("DEUR"). Article 2 was last amended in 2007; Article 3 was last amended in 2006; Article 5 became effective in 2001 through interim rulemaking; and Article 6 became effective in 2004 through exempt rulemaking.

Proposed Action

The fee rules in Articles 5 and 6 are interim rules authorized by Laws 2000, Ch. 225, § 13. The session law required the Department to make these rules permanent within 120 days. The Department did hold a public comment period for the Article 5 rules in 2001, in which the Department indicated its intent to use the interim rules "to test its cost and revenue assumptions prior to the proposal of permanent rules." Despite the session law mandate, the Department has yet to make these rules permanent, and did not propose to do so in its initial submission to the Council. The Department did propose action in its 2007 and 2012 five-year review reports, but no action was taken.

After discussion with Council staff, the Department amended its report with a proposal to make these rules permanent. The Department is currently soliciting suggestions from customers in preparation for permanent rulemaking, which it expects to submit to GRRC in October, 2019. If the Department gets an exception from the moratorium for this rulemaking, it will also address the minor issues noted below and repeal Appendix B in Article 2.

Analysis of the agency's report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. Has the agency certified that it is in compliance with A.R.S. § 41-1091?

Yes. The Department certifies that it is in compliance with A.R.S. § 41-1091.

2. Has the agency analyzed the rules' effectiveness in achieving their objectives?

Yes. The Department indicates that the rules have been effective in achieving their individual objectives.

3. Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?

No. The Department has not received any written criticisms in the last five years.

4. Has the agency analyzed whether the rules are authorized by statute?

Yes. The Department cites to A.R.S. § 49-104(B)(4) which requires the Department to "[a]dopt procedural rules that are necessary to implement the authority granted under this title." The Department also cites specific statutory authority for each article and rule.

5. Has the agency analyzed the rules' consistency with other rules and statutes?

Yes. The Department indicates that the rules are consistent with relevant rules and statutes with the exception of Articles 5 and 6, which were authorized by Laws 2000, Ch. 225, § 13. The session law required the Department to undertake permanent rulemaking within 120 days after the interim rules were filed. The Department is currently planning to request an exemption from the rulemaking moratorium to adopt permanent fee rules for these Articles.

6. Has the agency analyzed the current enforcement status of the rules?

Yes. The Department indicates that the current rules are being enforced without issue.

7. Has the agency analyzed whether the rules are clear, concise, and understandable?

Yes. The Department indicates that the rules are clear, concise, and understandable with two exceptions:

- The Department has found technical errors in R18-7-201 and R18-7-203.
- The Department believes that R18-7-301(F), which deals with notice requirements, could be clarified by inserting additional language from R18-1-401(A).

If the Department receives an exception from the rulemaking moratorium for the fee rules in Articles 5 and 6, it will also address these issues.

8. Has the agency analyzed whether:

a. The rules are more stringent than corresponding federal law?

Yes. The Department indicates that there is no corresponding federal law.

b. There is statutory authority to exceed the requirements of federal law?

Not applicable.

9. For rules adopted after July 29, 2010, has the agency analyzed whether:

a. The rules require issuance of a regulatory permit, license or agency authorization?

Yes. The Department indicates that the rules do not require the issuance of a regulatory permit, license, or agency authorization.

b. It is in compliance with the general permit requirements of A.R.S. § 41-1037 or explained why it believes an exception applies?

Not applicable.

10. Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?

Yes. In the previous five-year review report, the Department indicated that it would have the resources to propose permanent fee rules for Articles 5 and 6 by December, 2013. This mirrored the course of action from the 2007 report, in which the Department proposed to make the rules permanent by December, 2010. Due to other rulemaking priorities, the Department has never evaluated the current fees or requested an exemption for this rulemaking. However, the Department plans to request an exception from the Governor's Office and is currently soliciting comments from customers in preparation for permanent rulemaking. The Department proposes to submit the permanent rules to GRRC by October, 2019.

Conclusion

The report meets the requirements of A.R.S. § 41-1056 and R1-6-301. This analyst recommends approval.



**GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M**

MEETING DATE: July 6, 2017

AGENDA ITEM: E-6

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : June 20, 2017

SUBJECT: DEPARTMENT OF ENVIRONMENTAL QUALITY (F-17-0705)
Title 18, Chapter 7, Article 2, Soil Remediation Standards; Article 3, Prospective Purchaser Agreement; Article 5, Voluntary Remediation Program; Article 6, Declaration of Environmental Use Restriction Fee

I reviewed the five-year-review report's economic, small business, and consumer impact comparison for compliance with A.R.S. § 41-1056 and make the following comments.

1. Economic Impact Comparison

The economic, small business, and consumer impact statement (EIS) from the most recent rulemakings were made available for this review. The rules address the remedial actions of soil and water cleanups. Remedial actions may be regulated by any one of many different environmental programs administered by the Department.

Article 3 addresses Prospective Purchaser Agreements (PPAs). PPAs refer to potential purchasers of previously contaminated property. If these purchasers did not contribute to the contamination of the site, potential liability may be avoided through a written agreement with the Department. Since the last five-year review report, the Department has entered into only one PPA.

Article 5 addresses the Voluntary Remediation Program (VRP). The VRP allows property owners, prospective purchasers, and other interested parties to conduct remedial investigations with an expedited review of their activities by the Department. As of March 2017, there were 55 active sites in the VRP. Over the past 5 years, the Department received, on average, 11 new VRP applicants per year, and 78 VRP sites were closed. The average cost to an applicant participating in the VRP was approximately \$22,000. The Department believes the benefits outweigh the costs. After a site has been remediated and closed, development and economic benefits can begin to accrue to the owner and community.

Article 6 covers Declaration of Environmental Use Restriction (DEUR) Fees. DEUR Fees are required to use an institutional or engineering control to reduce the potential for exposure to contaminants on the property, or if an owner elects to leave contamination on the property that exceeds the applicable residential soil standards for the property. The decision to obtain a DEUR is left to site owners, therefore the Department concludes that the benefits associated with obtaining a DEUR must outweigh the costs for individuals who opt-in to apply for one. During calendar years 2012 through 2016, the Department approved and recorded 18 DEURs, processed 7 DEUR modifications, and issued 2 DEUR releases. The costs to site owners associated with obtaining a DEUR are generally between \$4,500 and \$25,000.

Key stakeholders that are impacted by the Chapter 7 rules include the Department, businesses/property owners whose land may require cleanup assistance from the Department, and the public. The Department concludes that the economic impact has generally been as predicted in the prior EIS for the rules in Chapter 7 cited above.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

The Department has determined that the rules impose the least burden and costs to regulated persons, including paperwork and other compliance costs, necessary to achieve the underlying regulatory and statutory objective.

3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?

No analysis was submitted to the Department by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states.

4. Conclusion

Staff finds that the report complies with A.R.S. § 41-1056 and recommends approval.



Douglas A. Ducey
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY



Misael Cabrera
Director

April 27, 2017

Ms. Nicole A. Ong, Chair
Governor's Regulatory Review Council
100 N. 15th Avenue, Suite 402
Phoenix, AZ 85007

Re: Submission of Five-Year Review Report for 18 A.A.C. 7-Remedial Action

Dear Ms. Ong:

Pursuant to A.R.S. § 41-1056 and A.A.C. R1-6-301, the Arizona Department of Environmental Quality submits the attached five-year-review report for Chapter 7 of Title 18, Arizona Administrative Code, to the Governor's Regulatory Review Council. I have included copies of the rules that were reviewed, and the authorizing statutes. Economic, small business and consumer impact statements are also included for the rules in Articles 2, 3, and 5.

In the process of conducting the five-year-review report, the Department conducted a thorough analysis of the existing rules subject to the review to determine whether each rule has adequate authority; objectives are being met; the rules are effective, consistent with other state and federal laws, being enforced and clear, concise and understandable. The Department also reviewed its records for any written comments received during the last five years on the rules, and changes to the economic impact of the rules since the time of their adoption.

There is no rule in Chapter 7 for which review was omitted with the intention that the rule expire under A.R.S. § 41-1056(J). Also, Chapter 7 does not contain any rule for which review was omitted because the Council rescheduled the review of the rule under A.R.S. § 41-1056(H). I certify that this agency is in compliance with A.R.S. § 41-1091.

The report identifies an appendix to be repealed and a number of minor corrections that could be made in Chapter 7 rules and proposes a course of action to make those changes. The Department will continue to review and seek comment on the existing rules as permitted under the moratorium.

Nicole Ong, Chair
Page 2 of 2

Please do not hesitate to contact us if there are any questions we can answer for you regarding this report. If you have any questions, please contact Mark Lewandowski at 602-771-2230. Thank you for your assistance in reviewing the Department's rules.

Sincerely,



for Bret Parke
Deputy Director

ADEQ FIVE-YEAR REVIEW REPORT

18 A.A.C. 7 REMEDIAL ACTION

ARTICLES 1 THROUGH 6

APRIL 2017

**FIVE-YEAR REVIEW OF ARIZONA ADMINISTRATIVE CODE
TITLE 18, CHAPTER 7
ARTICLES 1 THROUGH 6**

TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 7. DEPARTMENT OF ENVIRONMENTAL QUALITY-
REMEDIAL ACTION

ARTICLE 1. EXPIRED

ARTICLE 2. SOIL REMEDIATION STANDARDS

Section

R18-7-201. Definitions
R18-7-202. Applicability
R18-7-203. Remediation Standards
R18-7-204. Background Remediation Standards
R18-7-205. Pre-Determined Remediation Standards
R18-7-206. Site-specific Remediation Standards
R18-7-207. Site-specific Remediation Standards for Nitrates and Nitrites
R18-7-208. Declaration of Environmental Use Restriction (DEUR)
R18-7-209. Letter of Completion or Alternative Closure Document
R18-7-210. Notice of Remediation and Repository
Appendix A. Soil Remediation Levels (SRLs)
Appendix B. 1997 Soil Remediation Levels (SRLs)

ARTICLE 3. PROSPECTIVE PURCHASER AGREEMENT

Section

R18-7-301. Prospective Purchaser Agreement Fee

ARTICLE 4. REPEALED

ARTICLE 5. VOLUNTARY REMEDIATION PROGRAM

Section

R18-7-501. Definitions
R18-7-502. Application Fee
R18-7-503. Deposit
R18-7-504. Voluntary Remediation Program Reimbursement
R18-7-505. Hourly Reimbursement Rate
R18-7-506. Voluntary Remediation Program Accounting
R18-7-507. Account Reconciliation

ARTICLE 6. DECLARATION OF ENVIRONMENTAL USE RESTRICTION FEE

Section	
R18-7-601.	Definitions
R18-7-602.	Applicability
R18-7-603.	Fee
R18-7-604.	Fee Calculation
R18-7-605.	Postponement of the Release Portion of the DEUR Fee
R18-7-606.	DEUR Modification Fee

ADEQ FIVE-YEAR-REVIEW REPORT
18 A.A.C. 7-REMEDIAL ACTION
ARTICLES 1 THROUGH 6

Scope of Review:

18 A.A.C. 7 contains 4 active articles, 24 sections and 2 appendices promulgated by the Department related to remedial actions. The Remedial Action rules are relevant to several of the Department's programs in other Chapters. This review covers the four active Articles in Chapter 7. Three of the four Articles deal just with fees. This five-year review report covers the period from approximately April, 2012 through April, 2017. None of the rule sections or Appendices have been created or updated since the last five-year review report.

Structure of Chapter 7:

Remedial actions are ADEQ regulated clean ups of soil or water. A definition of remediation exists at A.R.S. § 49-151. Remedial actions covered in Chapter 7 may occur under a variety of different conditions and may be regulated by any one of a number of different environmental programs administered by the Department, such as hazardous waste or underground storage tanks. Remedial actions may involve soil, groundwater, or both. The cleanup levels that need to be achieved may vary with the use of the property. The remediation may include institutional controls and/or engineering controls, each of which is also defined at A.R.S. § 49-151. In lieu of fixed or predetermined cleanup levels, a site-specific assessment may be done, which may result in alternative cleanup requirements or that no remediation is required. Chapter 7 provides procedures for some of these different scenarios.

The Articles in Chapter 7 are organized as follows:

Article 1 Expired

Article 2 Soil Remediation Standards

This Article provides standards and procedures applicable to remedial actions including soil and groundwater. The Article was last amended effective May 5, 2007.

Article 3 Prospective Purchaser Agreement

This Article helps implement a statute that allows certain purchasers of contaminated property to avoid CERCLA or WQARF liability that might accompany property ownership. Under A.R.S. § 49-285.01, if the potential purchaser of a contaminated property did not contribute to the contamination at the site, potential liability may be avoided through a written agreement with the Department, known as a Prospective Purchaser Agreement (PPA). Article 3 consists of just one Section and establishes fees and processes by which PPA applicants reimburse the Department for its costs associated with the preparation of a PPA. The original rule became effective in 1997 and was last amended in March of 2006.

Article 4 Repealed

Article 5 Voluntary Remediation Program

The Voluntary Remediation Program or VRP, was established in A.R.S. Title 49, Chapter 1, Article 5 and allows authorized property owners, prospective purchasers, and other interested parties to conduct remedial investigations and cleanups with an expedited review of their activities by the Department. Article 5 helps implement the VRP by establishing fees and related processes for participants in the Voluntary Remediation Program (VRP) to reimburse the Department for its review and oversight costs. Article 5 applies to fees only and does not contain any technical requirements. The rules in Article 5 became effective on February 9, 2001 through an interim rulemaking and have not been updated since then.

Article 6 Declaration of Environmental Use Restriction Fee

This Article establishes fees and processes associated with obtaining a Declaration of Environmental Use Restriction (DEUR) under A.R.S. § 49-152 or 49-158. As authorized by A.R.S. § 49-152(K), a fee is to be paid to the Department before a

property owner records a DEUR. A recorded DEUR is required whenever an owner elects to use an institutional or engineering control to reduce the potential for exposure to contaminants on the property, or if an owner elects to leave contamination on the property that exceeds the applicable residential soil standard for the property. The rules in Article 6 became effective on February 20, 2004 through an exempt rulemaking and have not been updated since then.

ARTICLE 1. Expired

ARTICLE 2 - SOIL REMEDIATION STANDARDS INFORMATION THAT IS IDENTICAL WITHIN GROUPS OF RULES

R18-7-201 through 210 and Appendices A & B

1. General and Specific Statutes Authorizing the Rules: The rules in 18 A.A.C. 7, Article 2 are authorized generally by A.R.S. §§ 41-1003, and 49-104(B)(4). The specific authorizations for the rules are A.R.S. §§ 49-104(B)(16), 49-152(A)(1), and (M) and 49-158(J).

3. Effectiveness of the Rules in Achieving their Objectives: The rules in this Article were last amended in May 2007. The rules in 18 A.A.C. 7, Article 2 have been effective in achieving their individual objectives.

4. Consistency of the Rules with State and Federal Statutes and Rules, and a Listing of the Statutes or Rules Used in Determining the Consistency: The rules in 18 A.A.C. 7, Article 2 are consistent with A.R.S. § 49-152 and rules governing other ADEQ programs, such as R18-8-101, Remedial Action Requirements; Level and Extent of Cleanup. The article is also consistent with A.R.S. § 33-434.01 “Seller's duty to disclose; soil remediation; definition”. There are no federal laws governing soil cleanup standards for states.

Other department rules governing remediation and no further action determinations:

UST: R18-12-263.03. LUST Case Closure

R18-12-263.04. Groundwater LUST Case Closures
R18-12-264. General Reporting Requirements

WQARF: R18-16-414. Determination of No Further Action

Hazardous Waste: see 40 CFR Part 68; Land Disposal Restrictions, as incorporated in R18-8-268

Federal Guidance. EPA Region 9 has replaced the 2004 Preliminary Remediation Goals (PRG) that were utilized in the development of the Appendix A SRLs with a May 2016 document called Regional Screening Levels (RSL). The new guidance document lists different values for some of the fixed contamination levels chemicals in Appendix A. There is no statutory duty for ADEQ to update its Soil Remediation Levels (SRLs) based on changed EPA guidance and no written comments have been received to that effect. Additionally, the screening levels or toxicity values from this later guidance can and has been used by ADEQ and property owners in risk assessments to obtain “site-specific” standards under R18-7-206.

5. Status of agency enforcement policy regarding the rules: The rules in Article 2 are being enforced.

6. Clarity, Conciseness, and Understandability of the Rules: The Department has found minor technical errors in R18-7-201 and R18-7-203. Other than these items, the Department has concluded that the rules in 18 A.A.C. 7, Article 2 are clear, concise, and understandable.

7. Written Criticisms of the Rules Received within the last five years: No written criticisms have been received since these rules were last amended.

8. Current economic, small business, and consumer impact of the rules as compared to the economic, small business, and consumer impact statement prepared at the last rule adoption:

These soil remediation level (SRL) rules were amended by the Department in May 2007. An Economic, Small Business, and Consumer Impact Statement (EIS) was prepared for that rulemaking and is submitted with this report. The economic impact of the rules has not differed

significantly from the May 2007 EIS. ADEQ has noted no significant increases or decreases in costs which could be associated with the SRLs in this rule or related rules.

ADEQ staff and other operating costs related to Article 2 have not changed in the last five years. Fluctuations are caused by the amount of work coming into the department where the Article 2 rules need to be applied.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

No analysis was submitted.

10. Completion of previous proposed courses of action: The department did not propose any changes to this Article in the last five-year review report.

11. Cost benefit determination; least burden and cost: This Article provides standards and procedures applicable to ADEQ-regulated remedial actions affecting soil and groundwater. The standards are based on national guidance and set to allow the highest concentration that doesn't present an unreasonable toxic or carcinogenic risk. The benefits at the time of adoption were reduced adverse health effects, and the level playing field that results when uniform standards apply whether the contamination results from a small gas station or a large hazardous waste facility. ADEQ believes these uniform standards more than balance the costs, which vary widely by the site being remediated and are difficult to quantify. ADEQ believes that the choice of remediating to one of three standards (background, predetermined, or based on a site-specific risk assessment) gives impacted entities the ability to choose the lowest possible cost to obtain the required health benefit.

12. Stringency compared to corresponding federal law: There is no corresponding federal law.

13. Compliance with A.R.S. § 41-1037: These rules do not require the issuance of a regulatory permit, license or agency authorization.

14. Proposed course of action: If the department gets approval from the Governor to adopt permanent fee rules in Articles 5 and 6 of 18 A.A.C. 7, the department will address the minor issue noted below in R18-7-203 and repeal Appendix B.

ANALYSIS OF INDIVIDUAL RULES

ARTICLE 2 - SOIL REMEDIATION STANDARDS

R18-7-201 Definitions

2. Objective of the Rule: The rule's objective is to provide definitions necessary for the administration of 18 A.A.C. 7, Article 2.

6. Clarity, conciseness, and understandability of the rule: In the definition of "carcinogen", there is an outdated link for an EPA guidance document. The correct link should be https://www.epa.gov/sites/production/files/2013-09/documents/cancer_guidelines_final_3-25-05.pdf.

14. Proposed course of action: ADEQ proposes to remove text related to Appendix B from the definition of "soil remediation level" in an expedited rulemaking that will repeal Appendix B and be proposed in 2017.

R18-7-202 Applicability

2. Objective of the Rule: The rule describes the extent to which 18 A.A.C. 7, Article 2 is applicable. The rule applies to persons who undertake soil remediation activities; both those who have a legal duty to do so and those who conduct voluntary remediation. The rule also describes the transition from the old standards in Appendix B to the new standards in Appendix A.

14. Proposed course of action: ADEQ proposes to remove text related to Appendix B in R18-7-202(E) in an expedited rulemaking that will repeal Appendix B and be proposed in 2017.

R18-7-203 Remediation Standards

2. Objective of the Rule: The rule summarizes the objectives that must be met for the remediation of contaminated soil to protect public health and the environment.

6. Clarity, conciseness, and understandability of the rule: The series of Sections listed in subsection (B) should have an “or” between the second and third Section.

R18-7-204 Background Remediation Standards

2. Objective of the Rule: The rule describes how a person may remediate to a background contaminant concentration and how background remediation standards are to be established.

R18-7-205 Pre-determined Remediation Standards

2. Objective of the Rule: The rule describes how a person may remediate to residential or non-residential soil remediation levels as appropriate for the use of the property. It also provides further details with respect to the use of the pre-determined standards in Appendices A and B.

14. Proposed course of action: ADEQ proposes to remove the reference to Appendix B from subsection (A) of this rule in an expedited rulemaking that will repeal Appendix B and be proposed in 2017.

R18-7-206 Site-specific Remediation Standards

2. Objective of the Rule: The rule describes how a person may remediate to a residential or non-residential site-specific remediation level as determined by a site-specific human health risk assessment. It also establishes human health risk assessment methodologies and factors to use.

R18-7-207 Site-specific Remediation Standards for Nitrates and Nitrites

2. Objective of the Rule: The rule specifies a site-specific remediation level for nitrate or nitrite contaminated soil.

R18-7-208 Declaration of Environmental Use Restriction (DEUR)

2. Objective of the Rule: The rule lists the circumstances under which a property owner is required to execute and record a DEUR and provides the authorizing statute for more complete details.

R18-7-209 Letter of Completion or Alternative Closure Document

2. Objective of the Rule: The rule describes the procedures for the Department issuing a Letter of Completion, or an alternative closure document for a property.

R18-7-210 Notice of Remediation and Repository

2. Objective of the Rule: The rule's objective is to inform property owners and persons conducting soil remediation when a Notice of Remediation is required and what the notice is to contain. Additionally, the rule sets forth the requirements for the Department's soil remediation repository.

Appendix A. Soil Remediation Levels (SRLs)

2. Objective of the Rule: The objective of Appendix A is to provide a list of contaminants of concern and the soil clean up levels associated with each. The Appendix provides the predetermined soil remediation levels for several clean up scenarios: residential, non-residential, and residential levels for carcinogens where the property use is a school or facility where children are reasonably expected to be in frequent, repeated contact with the soil (the 10⁻⁶ column).

Appendix B. 1997 Soil Remediation Levels (SRLs)

2. Objective of the Rule: The objective of Appendix B was to preserve the list of contaminants of concern and soil cleanup levels for certain grandfathered sites from the 1997 rules. Sites that were characterized before May 5, 2007 had the option to use Appendix B, and then had three years to meet the 1997 SRLs in Appendix B. After that date, the updated SRLs from Appendix A applied to them.

14. Proposed course of action: ADEQ believes that Appendix B has become outdated because no sites exist that were characterized before May 5, 2007 where soil remediation can still be conducted with Appendix B standards. ADEQ plans to propose an expedited rulemaking to repeal Appendix B and amend text in 3 other Sections in Article 2 where reference is made to Appendix B. (R18-7-201, 202, and 205) If the department gets approval from the Governor to adopt permanent fee rules in Articles 5 and 6, ADEQ will repeal Appendix B in that rulemaking.

ARTICLE 3
PROSPECTIVE PURCHASER AGREEMENT
INFORMATION THAT IS IDENTICAL WITHIN GROUPS OF RULES

(There is only one rule in Article 3.)

ANALYSIS OF INDIVIDUAL RULES

R18-7-301 Prospective Purchaser Agreement Fee

1. General and Specific Statutes Authorizing the Rule: The rule in 18 A.A.C. 7, Article 3 is generally authorized by A.R.S. §§ 41-1003 and 49-104(B)(4). The specific authorization for the rules is found at A.R.S. § 49-285.01(H).

2. Objective of the Rule: The Department may enter into an agreement with the prospective purchaser of a contaminated property who meets certain qualifications. Under the agreement, the Department will provide to the purchaser a written release and a covenant not to sue for existing

contamination at the facility. A.R.S. § 49-285.01 allows the Department to charge the prospective purchaser a reasonable fee for the preparation and execution of the agreement. This rule's objective is to establish details and procedures related to the fee.

3. Effectiveness of the Rule in Achieving the Objective: The rule in 18 A.A.C. 7, Article 3 is effective in achieving its objective.

4. Consistency of the Rule with State and Federal Statutes and Rules, and a Listing of the Statutes or Rules Used in Determining the Consistency: The rule in 18 A.A.C. 7, Article 3 is consistent with A.R.S. §§ 41-1008 and 49-285.01. There is no federal law governing a state agency's fees for prospective purchaser agreements.

5. Status of agency enforcement policy regarding the rule: There have been no problems enforcing this rule.

6. Clarity, Conciseness, and Understandability of the Rule: The Department has analyzed the clarity, conciseness, and understandability of this rule. Subsection (F) requires the department to publish a legal notice. It appears that only a single publication is required but there is no indication of where the notice should be published. A department rule in 18 A.A.C. 1 provides some guidance by stating that when "notice procedures are not otherwise prescribed by statute or rule" notice shall be published "at least once, in one or more newspapers of general circulation in the county or counties concerned". (R18-1-401(A)) This language could be inserted in R18-7-301. Other than this, the rule in 18 A.A.C. 7, Article 3 is clear, concise, and understandable.

7. Written criticisms of the rule received within the last five years: There have been no written criticisms of the rule in 18 A.A.C. 7, Article 3 submitted to the Department since the last five year review in 2012.

8. Current economic, small business, and consumer impact of the rule as compared to the economic, small business and consumer impact statement at the last rule adoption: This rule was amended by the Department and approved by GRRC in March of 2006. An Economic, Small

Business, and Consumer Impact Statement (EIS) was prepared in conjunction with that rulemaking and is submitted with this report. The fees in this rule were increased when the current rule was last amended in March of 2006. The initial charge was increased from a single one of \$900 to tiered charges of \$2500 and \$3600. At the same time, the hourly rate was increased \$30/hr. to \$73/hr.

Since the last 5-year review report, the Department has entered into just one Prospective Purchaser Agreement (PPA). Generally, the cost of a PPA ranges from the initial charge (either \$2,500 or \$3,600) and up. The most recent PPA from this 5-year period, will be approximately \$5300. After execution, development usually occurs, and, in addition, the required public benefit under A.R.S. § 49-285.01(A)(4) begins accruing. The economic impact of this fee rule has not differed from the March 2006 EIS. In particular, ADEQ notes no differences related to the following area from the 2006 EIS.

“The Department believes that, in the aggregate, benefits of this rule, and of PPAs in general, outweigh the costs. Cleaning up contaminated sites is typically very expensive, several millions of dollars in some cases. The cost of developing property is likewise relatively expensive, when compared to the costs of a PPA. Even using the increased fees in the final rule, the charges the applicant pays for a PPA are small when compared to the overall project budget or to the potential cost of WQARF liability for cleanup costs. Because the PPA is entirely voluntary, the prospective purchaser must weigh the charges and other costs of a PPA against the projected benefits of a project when making business decisions.” (2006 EIS)

9. Any analysis submitted to the agency by another person regarding the rule’s impact on this state’s business competitiveness as compared to the competitiveness of businesses in other states:

No such analysis was submitted for any rules in this Article.

10. Completion of previous proposed courses of action: There was no previous proposed course of action.

11. Cost benefit determination; least burden and cost: The prospective purchaser bears the costs of these agreements and applying for a prospective purchaser agreement is voluntary. The Department assumes that the prospective purchaser has weighed the upfront costs with the estimated benefits and decided that the benefits exceed the costs. To the extent that the rule is being used, the benefits of the rule exceed the costs. In addition, the rule is drafted so that the applicant can “pay as you go”. It can withdraw its request for an agreement at any time and not incur any more charges, or agree ahead of time to pay the entire cost to obtain the agreement faster without the periodic billing involved with “pay as you go.” (See subsection (E)).

12. Stringency compared to corresponding federal law: ADEQ believes that there is no corresponding federal law to this fee rule.

13. Compliance with A.R.S. § 41-1037: The rule in this Article does not require the issuance of a regulatory permit, license or agency authorization.

14. Proposed Course of Action: If the department gets approval from the Governor to adopt permanent fee rules in Articles 5 and 6 of 18 A.A.C. 7, the department will clarify the publication requirement noted above.

ARTICLE 4 REPEALED (eff. March 7, 2009)

**ARTICLE 5 - VOLUNTARY REMEDIATION PROGRAM
INFORMATION THAT IS IDENTICAL WITHIN GROUPS OF RULES**

R18-7-501 through 507

1. General and Specific Statutes Authorizing the Rules: The rules in 18 A.A.C. 7, Article 5 are authorized generally by A.R.S. §§ 41-1003 and 49-104(B)(4). The specific authorization for the rules is found at Laws 2000, Chapter 225, §13, and A.R.S. §§ 49-179 and 49-186.

3. Effectiveness of the Rules in Achieving the Objectives: The rules in 18 A.A.C. 7, Article 5 are effective in achieving their individual objectives and the overall objective of making the VRP program self-funded.

4. Consistency of the Rules with State and Federal Statutes and Rules, and a Listing of the Statutes or Rules Used in Determining the Consistency: The rules in 18 A.A.C. 7, Article 5 are consistent with A.R.S. § 41-1008. There is no federal law governing a state's fees for this type of program. Laws 2000, Chapter 225, §13, provided for these rules to be adopted as interim rules with reasonable notice and a hearing. The session law also required the Department to undertake a permanent rulemaking within a relatively short time frame after the interim rules were filed with the Secretary of State. The Department has opened dockets for the permanent rule making but has not yet proposed a permanent rule due to other rule making priorities. (Please see sections 10 and 14 below for further explanation.)

R18-7-502(A) requires a nonrefundable application fee, which is required by A.R.S. § 49-179(A).

5. Status of agency enforcement policy regarding the rules: The rules in 18 A.A.C., Article 5 are enforced by the Department. The Department ensures that the appropriate fees are paid and conducts appropriate accounting and account reconciliation as required by the rules.

6. Clarity, Conciseness, and Understandability of the Rules: The Department has analyzed the clarity, conciseness, and understandability of these rules and concludes that the rules in 18 A.A.C. 7, Articles 5 are clear, concise, and understandable.

7. Written criticisms of the rules received within the last five years: There have been no written criticisms of the rules in 18 A.A.C. 7, Article 5 submitted to the Department within the last five years.

8. Current economic, small business, and consumer impact of the rules as compared to the economic, small business and consumer impact statement at the last rule adoption: These are

interim rules covering just the fees for VRP oversight and a No Further Action determination. The rules have been in effect since 2001. An Economic Impact Statement (EIS) was prepared when these rules were adopted and is submitted with this report. Although the real estate market is different now than in 2001, ADEQ notes that the following statement from the 2001 EIS is still true. “After remediation, the property may be put to the type of use deemed most economically beneficial by the owner and market forces. Thus, VRP participation accords the owner the potential for realizing substantial financial benefits, as is the case when the property is developed to its ‘highest and best use.’ ”

In the past five years the VRP program has continued to be a valuable tool for private property owners in the state of Arizona. As of March 2017, there were 55 active sites in the VRP. Over the past five years, the number of new VRP applicants has averaged 11 per year. The average applicant’s cost for this oversight and a No Further Action (NFA) letter was approximately \$22,000. 78 sites were closed in the last 5 years. After a site is remediated and closed with a No Further Action letter from ADEQ under the VRP, many use restrictions disappear and the stigma related to contamination dissipates, allowing development to occur and economic benefits to accrue to the owner and the community.

The fees paid to the Department by VRP participants have not changed since 2001, and are currently recovering all of the Department’s VRP program costs. However, the participants are paying contractors more money to remediate sites than they did in 2001. However, the benefits of the VRP program and rules that allow ADEQ to recover its oversight and NFA related costs remain the same. If the site is adequately remediated, the participant can obtain a NFA determination, meaning that no further action would be taken by ADEQ to remediate or require remediation of the site (unless the NFA document is rescinded or amended). When the owners of a remediated site are more able to dispose of or use their properties according to their highest and best use, they have the potential to gain economic benefits and do not have to sell their properties at discounted rates.

The authorizing legislation provided for permanent VRP fee rules. When the permanent fee rules are prepared, it will be necessary to conduct a cost analysis to determine to what extent the

program's fee structure is meeting its statutory goal to sustain the program when other sources of funding are considered. While fund balances indicate that the program is fiscally sound, the program is currently receiving some funding from a federal grant called the State Response Grant (SRG). The VRP portion of this grant has been decreasing somewhat year by year. The amount of the grant actually spent on VRP in FY16 was \$205,100. It was used for non-billable program costs, allowing the remainder of the program to be self-supporting through fees. Fees collected have averaged \$130,000 to \$150,000 over the last five years.

The department has assumed that the impact of the fees to small businesses has been minimal to those small business applicants that have entered the program. R18-7-502(D) allows small businesses to spread out and pay their VRP fees under an agreed upon schedule. As of mid-2017, no small business applicants have requested to pay for the Department's VRP services in installments.

VRP staffing has changed since the 2012 report. Project oversight is carried out by five full-time equivalent (FTE) employees: one unit supervisor, one technical coordinator and three project managers. Typical work for the three project managers consists of reviewing, approving, denying or requesting modifications to work plans and/or site reports.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:
No such analysis was submitted for any rules in Article 5.

10. Completion of previous proposed courses of action: The rules in 18 A.A.C. 7, Article 5 were adopted as interim rules and became effective in February, 2001. In the last 5-year review report, ADEQ believed it would have the resources to propose permanent fee rules by December 2013, but that it would have to evaluate the current fees in order to request an exemption from the Governor's Office. Due to other rulemaking priorities, ADEQ has not evaluated the current fees or requested an exemption for this rulemaking as of June, 2017. However, ADEQ has begun soliciting suggestions from customers in preparation for a VRP fee rulemaking it expects to submit to GRRC in October, 2019.

11. Cost benefit determination; least burden and cost: As of March 2017, there were 55 active sites in the VRP. New VRP applicants average 11 per year and the average applicant's cost for a NFA letter is approximately \$22,000.¹ Due to the voluntary nature of this program, and the high participation, ADEQ believes that the benefits of ADEQ oversight combined with an NFA determination are greater than their costs.

ADEQ currently believes these rules impose the least burden and cost on the regulated consistent with the objective of a self-funded program. After a nonrefundable² application fee of \$2,000 is paid, the application is reviewed, and if complete, discussions on a work plan ensue. Only after a work plan is submitted is an initial deposit of \$4,000 required. From that point on, ADEQ can request additional deposits, in amounts not to exceed \$4,000, when the remaining balance is low, after calculating ADEQ work already performed at the hourly rate of \$110/hr. This allows ADEQ to restrict the fees paid by small owners to smaller amounts over smaller time intervals.

ADEQ notes that it has developed a revenue, invoice, and collection system since this rule was adopted in 2001. ADEQ believes it may be able to simplify the VRP fee rules based on the newer system and customer input, and reduce the burden of the rules on customers.

12. Stringency compared to corresponding federal law: ADEQ believes that there is no federal law corresponding to Article 5.

13. Compliance with A.R.S. § 41-1037: The rules in this Article do not require the issuance of a regulatory permit, license or agency authorization.

14. Proposed Course of Action: Although the Article 5 interim fee rules are working effectively, the Department believes its recent emphasis on simplicity and waste reduction make this a good time to update these rules. ADEQ will be submitting a request for a rule making exception to the Governor in time for a rulemaking to be submitted to GRRC in October, 2019. It

¹ ADEQ Voluntary Remediation Program records

² Required by A.R.S. 49-179(A).

should be noted that as part of the information needed to make a request to the Governor for a permanent fee rulemaking, ADEQ must determine whether to propose increasing, decreasing, or keeping the fees the same. It is uncertain whether an exemption under the current rulemaking moratorium would apply to the rule unless the fees or administrative burden decreased.

ANALYSIS OF INDIVIDUAL RULES

ARTICLE 5 - VOLUNTARY REMEDIATION PROGRAM

R18-7-501 Definitions

2. Objective of the Rule: The rule provides three definitions necessary for the administration of 18 A.A.C. 7, Article 5.

R18-7-502 Application Fee

2. Objective of the Rule: The rule establishes a nonrefundable application fee for the VRP, as required by A.R.S. § 49-179(A), to ensure that the Department recovers the costs of reviewing an application, requesting additional information, determining the applicant's eligibility to participate in the program, and providing other application-related services.

R18-7-503 Deposit

2. Objective of the Rule: The rule establishes a process for VRP applicants to pay advance deposits to be applied against the Department's reimbursable costs, as authorized by A.R.S. § 49-179(C).

R18-7-504 Voluntary Remediation Program Reimbursement

2. Objective of the Rule: The rule implements the provisions of A.R.S. § 49-179 relating to the reimbursement of program costs.

R18-7-505 Hourly Reimbursement Rate

2. Objective of the Rule: The rule establishes the hourly rate the Department may charge applicants for certain reimbursable costs and services.

R18-7-506 Voluntary Remediation Program Accounting

2. Objective of the Rule: The rule implements the provision in A.R.S. § 49-179(C) that requires the Department to provide applicants with documentation supporting its claims for reimbursement consistent with generally accepted accounting principles.

R18-7-507 Account Reconciliation

2. Objective of the Rule: The rule identifies the procedure that the Department will use to reconcile the total amount of site-specific reimbursable costs incurred by the Department against the total amount of funds paid by the applicant to determine the final amount due to or from the applicant.

ARTICLE 6

**DECLARATION OF ENVIRONMENTAL USE RESTRICTION FEE
INFORMATION THAT IS IDENTICAL WITHIN GROUPS OF RULES**

R18-7-601 through 606

1. General and Specific Statutes Authorizing the Rules: The rules in 18 A.A.C. 7, Article 6 are authorized generally by A.R.S. §§ 41-1003 and 49-104(B)(4). The specific authorization for the rules is found at Laws 2000, Chapter 225, §13, and A.R.S. §§ 49-152(K) and 49-158(G).

3. Effectiveness of the Rules in Achieving the Objectives: The rules in 18 A.A.C. 7, Article 6 are effective in achieving their individual objectives.

4. Consistency of the Rules with State and Federal Statutes and Rules, and a Listing of the Statutes or Rules Used in Determining the Consistency: The rules in 18 A.A.C. 7, Article 6 are consistent with A.R.S. § 41-1008 and A.R.S. §§ 49-152(K) and 49-158(G). There is no federal law governing a state's fees for this type of program. These rules are interim rules. The session law (Laws 2000, Chapter 225, § 13) directed the Department to initiate permanent rule making in a relatively short time frame after the interim rules were filed with the Secretary of State. The Department opened a docket for the permanent rule making but has not yet proposed a permanent rule due to other rule making priorities. (Please see section 10 and 14 below.)

5. Status of agency enforcement policy regarding the rules: The rules in 18 A.A.C. 7, Article 6 are enforced by the Department.

6. Clarity, Conciseness, and Understandability of the Rules: The Department has analyzed the clarity, conciseness, and understandability of the rules and concluded that the rules in 18 A.A.C. 7, Article 6 are clear, concise, and understandable.

7. Written criticisms of the rules received within the last five years: There have been no written criticisms of the rules in 18 A.A.C. 7, Article 6 submitted to the Department within the last five years.

8. Current economic, small business, and consumer impact of the rules as compared to the economic, small business and consumer impact statement at the last rule adoption: The rulemaking for these fee rules was exempt from the provisions of Title 41, Chapter 6, Article 3 under Laws 2000, Chapter 225, Section 13. There was no Economic, Small Business, and Consumer Impact Statement from that rulemaking. The current actual economic, small business and consumer impact is summarized here.

Persons Directly Affected. The majority of DEURs involve a private individual or company property owner paying the respective DEUR fees, but political subdivisions are also affected. Cities, counties, a university, and the State of Arizona have executed and recorded DEURs under this program.

Costs and Benefits. The DEUR is a restrictive covenant that “runs” with the land, meaning it is transferred with the land from owner to owner. It normally restricts use of a carefully described contaminated area to nonresidential uses to reduce the potential for exposure to the contaminants. It is used if the owner of contaminated property chooses not to remediate the contamination to the safer residential levels and can accept the restriction because the intended use is nonresidential, such as a warehouse or a factory.

Although DEUR costs, mainly fees, are classified as minimal to moderate, the choice whether to accept a DEUR or to clean up to residential standards is the owner’s. Therefore DEURs are generally used only if use or development of the property shows benefits exceed the costs. Contaminated property can sit vacant for years without any beneficial use, but when a DEUR is recorded, it protects the owner and subsequent purchasers from much of the uncertainty associated with contaminated property, so use and development can occur with all the direct and indirect benefits that flow from it. Jobs are normally generated both in developing the site and with the business activity that takes place on the site. Revenues are increased both locally through higher property taxes, and on the state level, with income taxes and sales tax.

In calendar years 2012 through 2016, ADEQ approved and recorded 18 DEURs, and processed 7 DEUR modifications, and 2 DEUR releases. The fees for these actions are listed in the rules and are based on the type of control and the type of release. In general, the cost to the owner runs from a minimum of about \$4,500 to a maximum of approximately \$25,000. Almost all of the fees contained in Article 6 are flat fees, except for an hourly rate of \$55/hour for on-going activities performed by the Department.

9. Any analysis submitted to the agency by another person regarding the rule’s impact on this state’s business competitiveness as compared to the competitiveness of businesses in other states:

No such analysis was submitted for any rules in this Article.

10. Completion of previous proposed courses of action: The rules in 18 A.A.C. 7, Article 6 were adopted as interim rules and became effective in February, 2004. In the last 5-year review

report, ADEQ believed it would have the resources to propose permanent fee rules by December 2013, but also believed that it would have to evaluate the sufficiency of the current fees in order to request an exemption from the Governor's Office. Due to other rulemaking priorities, ADEQ has not evaluated the current fees or requested an exemption for this rulemaking as of June, 2017. However, ADEQ will begin soliciting suggestions from customers in preparation for a DEUR fee rulemaking it expects to submit to GRRC in October, 2019.

11. Cost benefit determination; least burden and cost: Property owners accept DEURs on their property in order to pause or halt cleanup of the parcel at a point that is still above residential standards but that is adequate given the owner's plans for the property. Accepting a use restriction or engineering control on a property may affect the intended use of the property only minimally, but may save significantly on remediation expense. That DEURs are common shows that it is established that benefits exceed costs and that the costs are easily predictable. Due to the voluntary nature of this "attachment" to property rights, ADEQ believes that DEURs have been shown to have benefits greater than their costs.

ADEQ currently believes that the DEUR fee rules in this Article impose the least burden and cost necessary to achieve the objective of reducing the potential for exposure to contaminants on the property. The fee calculations were based on department costs from 2003 and earlier, and were "substantially reduced" compared to an earlier proposed fee rule.³ Postponement of a portion of the fee related to release of the DEUR is also a burden reducing feature.

ADEQ notes that it has developed a revenue, invoice, and collection system since this rule was adopted in 2004. ADEQ believes it may be able to simplify the DEUR fee rules based on the more modern system and customer input, and reduce the burden of the rules on customers.

12. Stringency compared to corresponding federal law: ADEQ believes that there is no corresponding federal law to Article 6.

³ See Notice of Exempt Rulemaking at 10 A.A.R. at 582, February 20, 2004.
4/28/17+

13. Compliance with A.R.S. § 41-1037: The rules in this Article do not require the issuance of a regulatory permit, license or agency authorization.

14. Proposed Course of Action: Although the Article 6 interim fee rules are working effectively, the Department believes its recent emphasis on simplicity and waste reduction make this a good time to update these rules. ADEQ will be submitting a request for a rule making exception to the Governor in time for a rulemaking to be submitted to GRRC in October, 2019. It should be noted that as part of the information needed to make a request to the Governor for a permanent fee rulemaking, ADEQ must determine whether to propose increasing, decreasing, or keeping the fees the same. It is uncertain whether an exemption under the current rulemaking moratorium would apply to the rule unless the fees or administrative burden decreased.

ARTICLE 6

DECLARATION OF ENVIRONMENTAL USE RESTRICTION FEE

ANALYSIS OF INDIVIDUAL RULES

R18-7-601 Definitions

2. Objective of the Rule: The rule's objective is to provide definitions necessary for the administration of 18 A.A.C. 7, Article 6.

R18-7-602 Applicability

2. Objective of the Rule: The rule describes the extent to which 18 A.A.C. 7, Article 6 is applicable. The rule applies to properties where the owner has elected to use an institutional control and/or an engineering control to reduce the potential for exposure to contaminants on the property, or to leave contamination in place with contaminant levels that are between residential and non-residential soil standards.

R18-7-603 Fee

2. Objective of the Rule: The rule states that a fee must be paid to the Department prior to the property owner recording a DEUR.

R18-7-604 Fee Calculation

2. Objective of the Rule: The rule provides a graduated fee schedule and informs property owners how specific costs will be included in calculating the fee for a DEUR.

R18-7-605 Postponement of the Release Portion of the DEUR Fee

2. Objective of the Rule: The rule's objective is to provide a mechanism for property owners to postpone payment of the portion of the fee to release the DEUR.

R18-7-606 DEUR Modification Fee

2. Objective of the Rule: The rule's objective is to clarify that a property owner must pay an additional fee to the Department if the property owner wishes to request a modification to an existing DEUR.

TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 7. DEPARTMENT OF ENVIRONMENTAL QUALITY
REMEDIAL ACTION

Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (01-4).

Editor's Note: The proposed summary action amending the heading of Chapter 7 was remanded by the Governor's Regulatory Review Council (August 4, 1999), which revoked the interim effectiveness of the change as of January 22, 1999. The heading of Chapter 7 before the proposed summary action has been restored (Supp. 99-3).

Editor's Note: Chapter 7 heading repealed; new heading adopted; both by summary action with an interim effective date of January 22, 1999; filed in the Office of the Secretary of State December 29, 1998 (Supp. 98-4).

Editor's Note: At the request of the Department of Environmental Quality, interim rules removed in Articles 1 & 2 (Supp. 97-3) by the emergency expiring were reinstated. The Department determined these emergency rules were in effect until permanent rules were adopted pursuant to Laws 1995, Ch. 232, § 5, and Laws 1996, Chapter 151, § 9. Under these Laws the Department was required to "adopt risk based remediation standards formally by rule pursuant to A.R.S. § 49-152(A) ... no later than August 1, 1997."; and the "interim standards adopted pursuant to A.R.S. § 49-152(A)(1)(a) and (b) ... as emergency rules shall remain in effect until the formally established rules are adopted." The interim rules have not been reprinted because permanent final rules have now been filed. Refer to Supp. 97-1 for interim emergency rules (Supp. 97-4).

Editor's Note: A Section of this Chapter was adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1997, Ch. 296, §§ 3(E) and (G), (10) and (11). Although exempt from certain provisions of the rule-making process, the Department was required to submit notice of proposed rulemaking with the Secretary of State for publication in the Arizona Administrative Register and conduct a public hearing (Supp. 97-3).

Editor's Note: Some Sections of Chapter 7 were exempt from the rulemaking process (Laws 1995, Ch. 232, § 5). However the Department was required to provide a notice of hearing and public hearing before adoption of the emergency rules. The emergency rules were approved by the Attorney General (Supp. 96-1). Editor's note added to clarify exemptions of emergency adoptions (Supp. 97-1).

ARTICLE 1. EXPIRED

Article 1, consisting of Section R18-7-110, expired under A.R.S. § 41-1056(E) at 8 A.A.R. 4298, effective August 31, 2002 (Supp. 02-3).

The proposed summary action renumbering Section R18-7-110 to R18-7-101 was remanded by the Governor's Regulatory Review Council (August 4, 1999), which revoked the interim effectiveness of the changes as of January 22, 1999. The numbering of Article 1 before the proposed summary action has been restored (Supp. 99-3).

Article 1, consisting of Sections R18-7-101 thru R18-7-109 repealed; R18-7-110 renumbered to R18-7-101; both by summary action with an interim effective date of January 22, 1999; filed in the Office of the Secretary of State December 29, 1998 (Supp. 98-4).

Article 1 consisting of Sections R18-7-101 through R18-7-110 adopted as permanent rules effective December 22, 1987.

Article 1 consisting of Sections R18-7-101 through R18-7-110 adopted as an emergency effective September 17, 1987 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Article 1 consisting of Sections R18-7-101 through R18-7-110 adopted as an emergency effective June 17, 1987 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Article 1 consisting of Sections R9-20-102, R9-20-104 through R9-20-106 and R9-20-111 adopted as an emergency effective March 6, 1987 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Article 1 consisting of Sections R9-20-102, R9-20-104 through R9-20-106 and R9-20-111 adopted as an emergency effective December 5, 1986 pursuant to A.R.S. § 41-1003, valid for only 90 days. Emergency expired.

Section
R18-7-101. Repealed
R18-7-102. Repealed

R18-7-103. Repealed
R18-7-104. Repealed
R18-7-105. Repealed
R18-7-106. Repealed
R18-7-107. Repealed
R18-7-108. Repealed
R18-7-109. Repealed
R18-7-110. Expired

ARTICLE 2. SOIL REMEDIATION STANDARDS

Article 2, consisting of interim Sections R18-7-201 through R18-7-209 and Appendices A through C, replaced by new permanent Sections, adopted effective December 4, 1997. Appendix D emergency expired (Supp. 97-4).

Article 2, consisting of Sections R18-7-201 through R18-7-209 and Appendices A through D, removed in Supp. 97-3 reinstated at the request of the Department. Refer to Supp. 97-1 for interim rules. Introduction stating the emergency expired has been removed for clarity (Supp. 97-4).

Article introduction revised below to clarify exemptions of emergency adoption (Supp. 97-1).

Article 2, consisting of Sections R18-7-201 through R18-7-209 and Appendices A through D, adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5. The Sections are in effect until permanent rules are adopted and in place by August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1).

Section
R18-7-201. Definitions
R18-7-202. Applicability
R18-7-203. Remediation Standards
R18-7-204. Background Remediation Standards
R18-7-205. Pre-determined Remediation Standards
R18-7-206. Site-specific Remediation Standards
R18-7-207. Site-specific Remediation Standards for Nitrates and Nitrites

- R18-7-208. Declaration of Environmental Use Restriction (DEUR)
 R18-7-209. Letter of Completion or Alternative Closure Document
 R18-7-210. Notice of Remediation and Repository
 Appendix A. Soil Remediation Levels (SRLs)
 Appendix B. 1997 Soil Remediation Levels (SRLs)
 Appendix C. Repealed
 Appendix D. Emergency Expired

ARTICLE 3. PROSPECTIVE PURCHASER AGREEMENT

Article 3, consisting of Section R18-7-301, adopted effective January 14, 1997 (Supp. 97-1).

Section

- R18-7-301. Prospective Purchaser Agreement Fee

ARTICLE 4. REPEALED

Article 4, consisting of Section R18-7-401, repealed by final rulemaking at 15 A.A.R. 232, effective March 7, 2009 (Supp. 09-1).

Article 4, consisting of Section R18-7-401, repealed. New Article 4, consisting of Section R18-7-401, adopted effective October 21, 1998 (Supp. 98-1).

Article 4, consisting of Section R18-7-401, adopted under an exemption from A.R.S. Title 41, Chapter 6 effective August 5, 1997 (Supp. 97-3).

Section

- R18-7-401. Repealed

ARTICLE 5. VOLUNTARY REMEDIATION PROGRAM

Article 5, consisting of Sections R18-7-501 through R18-7-507, adopted by exempt rulemaking at 7 A.A.R. 814, effective February 9, 2001 (Supp. 01-1).

Section

- R18-7-501. Definitions
 R18-7-502. Application Fee
 R18-7-503. Deposit
 R18-7-504. Voluntary Remediation Program Reimbursement
 R18-7-505. Hourly Reimbursement Rate
 R18-7-506. Voluntary Remediation Program Accounting
 R18-7-507. Account Reconciliation

ARTICLE 6. DECLARATION OF ENVIRONMENTAL USE RESTRICTION FEE

Article 6, consisting of R18-7-601 through R18-7-606, made by exempt rulemaking at 10 A.A.R. 573, effective February 20, 2004 (Supp. 04-1).

Section

- R18-7-601. Definitions
 R18-7-602. Applicability
 R18-7-603. Fee
 R18-7-604. Fee Calculation
 R18-7-605. Postponement of the Release Portion of the DEUR Fee
 R18-7-606. DEUR Modification Fee

ARTICLE 1. EXPIRED

Article 1, consisting of Section R18-7-110, expired under A.R.S. § 41-1056(E) at 8 A.A.R. 4298, effective August 31, 2002 (Supp. 02-3).

R18-7-101. Repealed

Historical Note

Adopted as an emergency effective December 5, 1986,

pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 86-6). Emergency expired. Adopted, without change, as an emergency effective March 6, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Former Section R9-20-102 was renumbered as Section R18-7-101, amended and readopted as an emergency effective June 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-2). Emergency expired. Readopted without change as an emergency effective September 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-3). Emergency expired. Amended and adopted as a permanent rule effective December 22, 1987 (Supp. 87-4). R18-7-101 repealed; new Section renumbered from R18-7-110; both by summary action with an interim effective date of January 22, 1999; filed in the Office of the Secretary of State December 29, 1998 (Supp. 98-4). Summary renumbering action revoked; former numbering of Sections R18-7-101 and R18-7-110 restored effective January 22, 1999. Adopted summary rules filed August 10, 1999; interim effective date of January 22, 1999 now the permanent effective date (Supp. 99-3).

R18-7-102. Repealed

Historical Note

Adopted as an emergency effective December 5, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 86-6). Emergency expired. Amended and adopted as an emergency effective March 6, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Former Section R9-20-104 was renumbered as Section R18-7-102, amended and readopted as an emergency effective June 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-2). Emergency expired. Readopted without change as an emergency effective September 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-3). Emergency expired. Amended and adopted as a permanent rule effective December 22, 1987 (Supp. 87-4). R18-7-102 repealed by summary action with an interim effective date of January 22, 1999; filed in the Office of the Secretary of State December 29, 1998 (Supp. 98-4). Adopted summary rules filed August 10, 1999; interim effective date of January 22, 1999 now the permanent effective date (Supp. 99-3).

R18-7-103. Repealed

Historical Note

Adopted as an emergency effective June 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-2). Emergency expired. Readopted without change as an emergency effective September 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-3). Emergency expired. Amended and adopted as a permanent rule effective December 22, 1987 (Supp. 87-4). R18-7-103 repealed by summary action with an interim effective date of January 22, 1999; filed in the Office of the Secretary of State December 29, 1998 (Supp. 98-4). Adopted summary rules filed August 10, 1999; interim effective date of January 22, 1999 now the permanent effective date (Supp. 99-3).

R18-7-104. Repealed

Historical Note

Adopted as an emergency effective June 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-

2). Emergency expired. Readopted without change as an emergency effective September 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-3). Emergency expired. Amended and adopted as a permanent rule effective December 22, 1987 (Supp. 87-4). R18-7-104 repealed by summary action with an interim effective date of January 22, 1999; filed in the Office of the Secretary of State December 29, 1998 (Supp. 98-4). Adopted summary rules filed August 10, 1999; interim effective date of January 22, 1999 now the permanent effective date (Supp. 99-3).

R18-7-105. Repealed**Historical Note**

Adopted as an emergency effective December 5, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 86-6). Emergency expired. Amended and adopted as an emergency effective March 6, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Former Section R9-20-105 was renumbered as Section R18-7-105, amended and readopted as an emergency effective June 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-2). Emergency expired. Readopted without change as an emergency effective September 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-3). Emergency expired. Amended and adopted as a permanent rule effective December 22, 1987 (Supp. 87-4). R18-7-105 repealed by summary action with an interim effective date of January 22, 1999; filed in the Office of the Secretary of State December 29, 1998 (Supp. 98-4). Adopted summary rules filed August 10, 1999; interim effective date of January 22, 1999 now the permanent effective date (Supp. 99-3).

R18-7-106. Repealed**Historical Note**

Adopted as an emergency effective December 5, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 86-6). Emergency expired. Amended and adopted as an emergency effective March 6, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Former Section R9-20-106 was renumbered as Section R18-7-106, amended and readopted as an emergency effective June 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-2). Emergency expired. Readopted without change as an emergency effective September 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-3). Emergency expired. Amended and adopted as a permanent rule effective December 22, 1987 (Supp. 87-4). R18-7-106 repealed by summary action with an interim effective date of January 22, 1999; filed in the Office of the Secretary of State December 29, 1998 (Supp. 98-4). Adopted summary rules filed August 10, 1999; interim effective date of January 22, 1999 now the permanent effective date (Supp. 99-3).

R18-7-107. Repealed**Historical Note**

Adopted as an emergency effective June 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-2). Emergency expired. Readopted without change as an emergency effective September 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-3).

Emergency expired. Amended and adopted as a permanent rule effective December 22, 1987 (Supp. 87-4). R18-7-107 repealed by summary action with an interim effective date of January 22, 1999; filed in the Office of the Secretary of State December 29, 1998 (Supp. 98-4). Adopted summary rules filed August 10, 1999; interim effective date of January 22, 1999 now the permanent effective date (Supp. 99-3).

R18-7-108. Repealed**Historical Note**

Adopted as an emergency effective June 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-2). Emergency expired. Readopted without change as an emergency effective September 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-3). Emergency expired. Amended and adopted as a permanent rule effective December 22, 1987 (Supp. 87-4). R18-7-108 repealed by summary action with an interim effective date of January 22, 1999; filed in the Office of the Secretary of State December 29, 1998 (Supp. 98-4). Adopted summary rules filed August 10, 1999; interim effective date of January 22, 1999 now the permanent effective date (Supp. 99-3).

Editor's Note: Emergency amendment R18-7-109, removed in Supp. 97-3, was reinstated at the request of the Department. Refer to Supp. 97-1 for emergency rule. This Section was subsequently amended under the regular rulemaking process effective (Supp. 97-4). This Section was repealed by summary action (Supp. 98-4).

R18-7-109. Repealed**Historical Note**

Adopted as an emergency effective December 6, 1986, pursuant to A.R.S. § 41-1003 valid for only 90 days. Emergency expired. Amended and adopted as an emergency effective March 6, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Former Section R9-20-111 was renumbered as Section R18-7-109, amended and readopted as an emergency effective June 18, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-2). Emergency expired. Readopted without change as an emergency effective September 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-3). Emergency expired. Amended and adopted as a permanent rule effective December 22, 1987 (Supp. 87-4). Section amended by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency amendment reinstated at the request of the Department (see Supp. 97-1); historical note from Supp. 97-3 stating emergency expired removed for clarity. Amendment adopted permanently effective December 4, 1997 (Supp. 97-4). R18-7-109 repealed by summary action with an interim effective date of January 22, 1999; filed in the Office of the Secretary of State December 29, 1998 (Supp. 98-4). Adopted summary rules filed August 10, 1999; interim effective date of January 22, 1999 now the permanent effective date (Supp. 99-3).

R18-7-110. Expired**Historical Note**

Adopted as an emergency effective June 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-2). Emergency expired. Readopted without change as an emergency effective September 17, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-3). Emergency expired. Amended and adopted as a permanent rule effective December 22, 1987 (Supp. 87-4). R18-7-110 renumbered by summary action with an interim effective date of January 22, 1999; filed in the Office of the Secretary of State December 29, 1998 (Supp. 98-4). Summary renumbering action revoked; former numbering of Sections R18-7-101 and R18-7-110 restored effective January 22, 1999 (Supp. 99-3). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 4298, effective August 31, 2002 (Supp. 02-3).

Editor's Note: Emergency adopted Article 2 removed in Supp. 97-3, was reinstated at the request of the Department. Refer to Supp. 97-1 for emergency Sections. New Sections were subsequently adopted under the regular rulemaking process (Supp. 97-4).

ARTICLE 2. SOIL REMEDIATION STANDARDS**R18-7-201. Definitions**

In addition to the definitions provided in A.R.S. §§ 49-151 and 49-152, the following definitions apply in this Article:

1. "Aquifer Protection Permit Program" means the system of requirements prescribed in A.R.S. Title 49, Chapter 2, Article 3 and A.A.C. Title 18, Chapter 9, Articles 1 through 7.
2. "Background" means a concentration of a naturally occurring contaminant in soils.
3. "Carcinogen" or "carcinogenic" means the potential of a contaminant to cause cancer in humans as determined by lines of evidence in accordance with a narrative classification in "Guidelines for Carcinogen Risk Assessment", EPA/630/P-03/001F, March 2005, (and no future editions), which is incorporated by reference. "Guidelines for Carcinogen Risk Assessment" is available from ADEQ and at <http://cfpub.epa.gov/ncea/raf/recordisplay.cfm?deid=116283>.
4. "Child care facility" means any permanent facility on a property or portion of property in which care or supervision is provided for children below the age of 18, unaccompanied by a parent or guardian, for periods of less than 24 hours per day. Child care facility does not include private homes or facilities that care for fewer than five children.
5. "Contact" means exposure to a contaminant through ingestion, inhalation, or dermal absorption.
6. "Contaminant" means a substance regulated by the programs listed in R18-7-202(A) or R18-7-202(B) or defined in A.R.S. § 49-171(2).
7. "Department" means the Arizona Department of Environmental Quality.
8. "Deterministic risk assessment methodology" means a site-specific human health risk assessment, performed using a specific set of input variables, exposure assumptions, and toxicity criteria, represented by point estimates for each receptor evaluated, which results in a point estimate of risk.
9. "Declaration of Environmental Use Restriction" or "DEUR" means a restrictive covenant as described in A.R.S. § 49-152.

10. "Ecological community" means an assemblage of populations of different species within a specified location in space and time.
11. "Ecological receptor" means a specific ecological community, population, or individual organism, protected by federal or state laws and regulations, or a local population that provides an important natural or economic resource, function, and value.
12. "Ecological risk assessment" means a scientific evaluation of the probability of an adverse effect to ecological receptors from exposure to specific types and concentrations of contaminants. An ecological risk assessment contains four components: identification of potential contaminants; an exposure assessment; a toxicity assessment; and a risk characterization.
13. "Engineering control" means a remediation method, such as a barrier or cap, which is used to prevent or minimize exposure to contaminants, and includes technologies that reduce the mobility or migration of contaminants.
14. "Excess lifetime cancer risk" means the increased risk of developing cancer above the background cancer occurrence levels due to exposure to contaminants.
15. "Exposure" means contact between contaminants and organisms.
16. "Exposure pathway" means the course a contaminant takes from a source to an exposed organism. Each exposure pathway includes a source or release from a source, an exposure point, and an exposure route. If the exposure point differs from the source, transport/exposure media (that is, air, water) are also included.
17. "Exposure point" means a location of potential contact between a contaminant and an organism.
18. "Exposure route" means the way a contaminant comes into contact with an organism (that is, by ingestion, inhalation, or dermal contact).
19. "Groundwater" means water in an aquifer as defined in A.R.S. § 49-201(2).
20. "Hazard Index" means the sum of hazard quotients for multiple substances and/or multiple exposure pathways, or the sum of hazard quotients for chemicals acting by a similar mechanism and/or having the same target organ.
21. "Hazardous Waste Management Program" means the system of requirements prescribed in A.R.S. Title 49, Ch. 5, Article 2 and 18 A.A.C. 8, Article 2.
22. "Hazard quotient" means the value which quantifies non-carcinogenic risk for one chemical for one receptor population for one exposure pathway over a specified exposure period. The hazard quotient is equal to the ratio of a chemical-specific intake to the reference dose.
23. "Imminent and substantial endangerment to the public health or the environment" has the meaning found in A.R.S. § 49-282.02(C)(1).
24. "Institutional control" means a legal or administrative tool or action taken to reduce the potential for exposure to contaminants.
25. "Letter of Completion" means a Departmental statement that indicates whether the property in question has met the soil remediation standards in this Article.
26. "Migrate" or "migration" means the movement of contaminants from the point of release, emission, discharge, or spillage: through the soil profile; by volatilization from soil to air and subsequent dispersion to air; and by water, wind, or other mechanisms.
27. "Non-carcinogen" means a contaminant that has the potential upon exposure to an individual to cause adverse health effects other than cancer.

28. “Non-residential site-specific remediation level” means a level of contaminants remaining in soil after remediation that results in a cumulative excess lifetime cancer risk between 1×10^{-6} and 1×10^{-4} and a Hazard Index no greater than 1 based on non-residential exposure assumptions.
29. “Nuisance” means the activities or conditions that may be subject to A.R.S. § 49-141.
30. “Person” means any public or private corporation, company, partnership, firm, association, or society of persons, the federal government and any of its departments or agencies, this state or any of its agencies, departments, political subdivisions, counties, towns, municipal corporations, as well as a natural person.
31. “Population” means an aggregate of individuals of a species within a specified location in space and time.
32. “Probabilistic risk assessment methodology” means a site-specific human health risk assessment, performed using probability distributions of input variables and exposure assumptions that take into account the variability and uncertainty of these values, which results in a range or distribution of possible risk estimates.
33. “Reasonable Maximum Exposure” or “RME” means the highest human exposure case that is greater than the average, but is still within the range of possible exposures to humans at a site.
34. “Remediate” or “remediation” has the meaning found in A.R.S. § 49-151.
35. “Reference dose” means the toxicity factor expressed as a threshold level in units of (mg/kg-day) at which non-cancer effects are not expected to occur.
36. “Repository” means the Department’s database, established under A.R.S. § 49-152(E), from which the public may view information pertaining to remediation projects.
37. “Residential site-specific remediation level” means a level of contaminants remaining in the soil after remediation that results in a cumulative excess lifetime cancer risk between 1×10^{-6} and 1×10^{-4} and a Hazard Index no greater than 1 based on residential exposure assumptions.
38. “Residential use” has the meaning found in A.R.S. § 49-151.
39. “School” means any public institution under the jurisdiction of the Arizona State Board of Education or the Arizona State Board for Charter Schools, or any non-public institution, established for the purposes of offering instruction to children attending any grade from preschool through grade 12.
40. “Site-specific human health risk assessment” means a scientific evaluation of the probability of an adverse effect to human health from exposure to specific types and concentrations of contaminants. A site-specific human health risk assessment contains four components: identification of potential contaminants; an exposure assessment; a toxicity assessment; and a risk characterization.
41. “Soil” means all earthen materials, including moisture and pore space contained within earthen material, located between the land surface and groundwater including sediments and unconsolidated accumulations produced by the physical and chemical disintegration of rocks.
42. “Soil remediation level” or “SRL” means a pre-determined risk-based standard based upon the total contaminant concentration in soil, developed pursuant to A.R.S. § 49-152(A)(1) and listed in Appendix A or, as applicable, in Appendix B.
43. “Solid Waste Management Program” means the system of requirements prescribed in A.R.S. Title 49, Ch. 4, and the rules adopted under those statutes.
44. “Special Waste Management Program” means the system of requirements prescribed in A.R.S. Title 49, Ch. 4, Article 9 and 18 A.A.C. 13, Articles 13 and 16.
45. “Underground Storage Tank Program” or “UST Program” means the system of requirements prescribed in A.R.S. Title 49, Ch. 6, Article 1 and 18 A.A.C. 12.
46. “Water Quality Assurance Revolving Fund” or “WQARF” means the system of requirements prescribed in A.R.S. Title 49, Ch. 2, Article 5 and 18 A.A.C. 16.

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency amendment reinstated at the request of the Department (see Supp. 97-1); historical note from Supp. 97-3 stating emergency expired removed for clarity. Section R18-7-201 adopted permanently effective December 4, 1997, replacing emergency rule (Supp. 97-4). Amended by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

R18-7-202. Applicability

- A.** This Article applies to a person legally required to conduct soil remediation by any of the following regulatory programs administered by the Department:
1. The Aquifer Protection Permit Program.
 2. The Hazardous Waste Management Program.
 3. The Solid Waste Management Program.
 4. The Special Waste Management Program.
 5. The Underground Storage Tank Program.
 6. The Water Quality Assurance Revolving Fund.
 7. Any other program under A.R.S. Title 49 that regulates soil remediation.
- B.** This Article also applies to a person who is not legally required to conduct soil remediation, but who chooses to do so under any program administered by the Department.
- C.** The requirements of this Article apply in addition to any specific requirements of the programs described in subsections (A) or (B).
- D.** This Article is limited to soil remediation.
- E.** A person who is remediating a site shall comply with the numeric soil remediation standards identified in either Appendix A or Appendix B if both of the following conditions are met. If either subsection (1) or subsection (2) is not met, a person who is remediating a site shall comply with the numeric soil remediation standards identified in Appendix A.
1. The site was characterized before May 5, 2007. A site is considered characterized when the laboratory analytical results of the soil samples delineating the nature, degree, and extent of soil contamination have been received by the person conducting the remediation.
 2. The site was remediated or a risk assessment completed before May 5, 2010. A risk assessment or remediation is considered completed when site closure, that meets the conditions in R18-7-209, has been requested.
- F.** Nothing in this Article limits the Department’s authority to establish more stringent soil remediation levels in response to:
1. A nuisance.
 2. An imminent and substantial endangerment to the public health or the environment.

G. This Article does not apply to persons remediating soil to numeric soil remediation levels specified in the following documents and entered into, issued, or approved before May 5, 2007:

1. Orders of the Director;
2. Orders of any Court;
3. Work agreements approved by the Director pursuant to A.R.S. § 49-282.05;
4. Closure plans approved by the Director pursuant to R18-8-265;
5. Post-closure permits approved by the Director pursuant to R18-8-270;
6. Records of Decision approved by the Director pursuant to R18-16-410;
7. Records of Decision approved by the Director pursuant to R18-16-413; and
8. Records of Decision approved by the Director pursuant to 40 CFR 300.430(f)(5).

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency amendment reinstated at the request of the Department (see Supp. 97-1); historical note from Supp. 97-3 stating emergency expired removed for clarity. Section R18-7-202 adopted permanently effective December 4, 1997, replacing emergency rule (Supp. 97-4). Amended by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

R18-7-203. Remediation Standards

- A.** A person subject to this Article shall remediate soil so that any concentration of contaminants remaining in the soil after remediation is less than or equal to one of the following:
1. The background remediation standards prescribed in R18-7-204.
 2. The pre-determined remediation standards prescribed in R18-7-205.
 3. The site-specific remediation standards prescribed in R18-7-206.
- B.** A person who conducts a soil remediation based on the standards in R18-7-205, R18-7-206, R18-7-207 shall remediate soil so that any concentration of contaminants remaining in the soil after remediation does not:
1. Cause or threaten to cause a violation of Water Quality Standards prescribed in 18 A.A.C. 11. If the remediation level for a contaminant in the soil is not protective of aquifer water quality and surface water quality, the person shall remediate soil to an alternative soil remediation level that is protective of aquifer water quality and surface water quality.
 2. Exhibit a hazardous waste characteristic of ignitability, corrosivity, or reactivity as defined in R18-8-261(A). If the remediation level for a contaminant in the soil results in leaving soils that exhibit a hazardous waste characteristic other than toxicity, the person shall remediate soil to an alternative soil remediation level such that the soil does not exhibit a hazardous waste characteristic other than toxicity.
 3. Cause or threaten to cause an adverse impact to ecological receptors. If the Department determines that the remediation level for a contaminant in soil may impact ecological receptors based on the existence of ecological

receptors and complete exposure pathways, the person shall conduct an ecological risk assessment. If the ecological risk assessment indicates that any concentration of contaminants remaining in the soil after remediation causes or threatens to cause an adverse impact to ecological receptors, the person shall remediate soil to an alternative soil remediation level, derived from the ecological risk assessment, that is protective of ecological receptors.

- C.** Soil vapor concentration may be used to estimate the total contaminant concentration in soil if the Department determines that the soil vapor concentration methodology will not be invalidated by the soil, hydrogeology, or other characteristics of the site.

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 59; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency amendment reinstated at the request of the Department (see Supp. 97-1); historical note from Supp. 97-3 stating emergency expired removed for clarity. Section R18-7-203 adopted permanently effective December 4, 1997, replacing emergency rule (Supp. 97-4). Amended by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

R18-7-204. Background Remediation Standards

- A.** A person may elect to remediate to a background concentration for a contaminant.
- B.** A person who conducts a remediation to a background concentration for a contaminant shall establish the background concentration using all of the following factors:
1. Site-specific historical information concerning land use.
 2. Site-specific sampling of soils unaffected by a release, but having characteristics similar to those of the soils affected by the release.
 3. Statistical analysis of background concentrations using the 95th percentile upper confidence limit.

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency amendment reinstated at the request of the Department (see Supp. 97-1); historical note from Supp. 97-3 stating emergency expired removed for clarity. Section R18-7-204 adopted permanently effective December 4, 1997, replacing emergency rule (Supp. 97-4). Amended by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

R18-7-205. Pre-determined Remediation Standards

- A.** A person may elect to remediate to the residential or non-residential soil remediation levels (SRLs) in Appendix A. If allowed under R18-7-202(E), a person may also elect to remediate to the residential or non-residential SRLs in Appendix B.
- B.** A person who conducts remediation pursuant to this Article shall remediate to the residential SRL on any property where there is residential use at the time remediation is completed.
- C.** A pre-determined contaminant standard established by federal law or regulation may be used for polychlorinated biphenyl cleanups regulated pursuant to the Toxic Substances Control

Act (TSCA) at 40 CFR 761.120 et seq., however, the Department has no regulatory authority to issue a Letter of Completion in TSCA-regulated cleanups.

- D.** A person who elects to utilize a residential or non-residential SRL for the following known human carcinogens shall remediate to a 1×10^{-6} excess lifetime cancer risk: benzene, benzidine, bis (chloromethyl) ether, chromium VI, diethylstilbestrol, direct black 38, direct blue 6, direct brown 95, nickel subsulfide, and vinyl chloride.
- E.** Except as provided below, a person who elects to remediate to a residential SRL may utilize a 1×10^{-5} excess lifetime cancer risk for any carcinogen other than a known human carcinogen. If the current or currently intended future use of the contaminated site is a child care facility or school where children below the age of 18 are reasonably expected to be in frequent, repeated contact with the soil, the person conducting remediation shall remediate to a 1×10^{-6} excess lifetime cancer risk.
- F.** For contaminants that exhibit both carcinogenic and non-carcinogenic effects, the numeric standard that is lower (more protective) shall apply.

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency amendment reinstated at the request of the Department (see Supp. 97-1); historical note from Supp. 97-3 stating emergency expired removed for clarity. Section R18-7-205 adopted permanently effective December 4, 1997, replacing emergency rule (Supp. 97-4). Amended by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

R18-7-206. Site-specific Remediation Standards

- A.** A person may elect to remediate to a residential or a non-residential site-specific remediation level derived from a site-specific human health risk assessment.
- B.** A person who conducts a remediation to a residential or a non-residential site-specific remediation level shall use one of the following site-specific human health risk assessment methodologies:
1. A deterministic methodology. If a deterministic methodology is used, reasonable maximum exposures shall be evaluated for future use scenarios.
 2. A probabilistic methodology. If a probabilistic methodology is used, it shall be no less protective than the 95th percentile upper bound estimate of the distribution.
 3. An alternative methodology commonly accepted in the scientific community. An alternative methodology is considered accepted in the scientific community if it is published in peer-reviewed literature, such as a professional journal or publication of standards of general circulation, and there is general consensus within the scientific community that the methodology is sound.
- C.** A person who conducts a remediation to a site-specific remediation level shall remediate to the residential site-specific remediation level on any property where there is residential use at the time remediation is completed.
- D.** A person conducting a remediation to a residential or a non-residential site-specific remediation level shall remediate the contaminants in soil to a Hazard Index no greater than 1 and a cumulative excess lifetime cancer risk from 1×10^{-6} to 1×10^{-4} . The following site-specific factors shall be evaluated when determining the cumulative excess lifetime cancer risk:

1. The presence of multiple contaminants.
2. The existence of multiple pathways of exposure.
3. The uncertainty of exposure.
4. The sensitivity of the exposed population.
5. Other program-related laws and regulations that may apply.

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency amendment reinstated at the request of the Department (see Supp. 97-1); historical note from Supp. 97-3 stating emergency expired removed for clarity. Section R18-7-206 adopted permanently effective December 4, 1997, replacing emergency rule (Supp. 97-4). Amended by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

R18-7-207. Site-specific Remediation Standards for Nitrates and Nitrites

A person who conducts remediation of nitrates or nitrites shall remediate to a site-specific remediation level pursuant to R18-7-203(B)(1), (2), and (3).

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency amendment reinstated at the request of the Department (see Supp. 97-1); historical note from Supp. 97-3 stating emergency expired removed for clarity. Section R18-7-207 adopted permanently effective December 4, 1997, replacing emergency rule (Supp. 97-4). Section repealed; new Section made by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

R18-7-208. Declaration of Environmental Use Restriction (DEUR)

A property owner who elects to leave contamination on a property that exceeds the applicable residential standard for the property under R18-7-205 or R18-7-206, or elects to use an institutional control or an engineering control to meet the requirements of R18-7-205, R18-7-206, or R18-7-207, shall record a DEUR pursuant to A.R.S. § 49-152 and comply with the related provisions of that statute and applicable rules.

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency amendment reinstated at the request of the Department (see Supp. 97-1); historical note from Supp. 97-3 stating emergency expired removed for clarity. Section R18-7-208 adopted permanently effective December 4, 1997, replacing emergency rule (Supp. 97-4). Former R18-7-208 renumbered to R18-7-209; new R18-7-208 made by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

R18-7-209. Letter of Completion or Alternative Closure Document

- A.** If a person requests a Letter of Completion or an alternative closure document, a person shall submit, at a minimum, the following information to the applicable Departmental program listed in R18-7-202(A) or described in R18-7-202(B):
1. A description of the actual activities, techniques, and technologies used to remediate soil at the site, including the legal mechanism in place to ensure that any institutional and engineering controls are maintained.
 2. Documentation that requirements prescribed in R18-7-203(A) and R18-7-203(B)(1) and (2) have been satisfied.
 3. If the Department determines pursuant to R18-7-203(B)(3) that an ecological risk assessment is required, documentation that the requirements prescribed in R18-7-203(B)(3) have been satisfied.
 4. Soil sampling analytical results that are representative of the area remediated, including documentation that the laboratory analysis of samples has been performed by a laboratory licensed by the Arizona Department of Health Services under A.R.S. § 36-495 et seq. and 9 A.A.C. 14, Article 6.
 5. A statement signed by the person conducting the remediation certifying the following: I certify under penalty of law that this document and all attachments are, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and imprisonment for knowing violations.
- B.** The applicable Departmental program described in R18-7-202(A) or R18-7-202(B) shall evaluate the information described in R18-7-209(A). The Department may request additional information, or if the Department verifies compliance with the soil remediation standards set forth under this Article and closure requirements of the applicable program or programs identified in R18-7-202(A) or described in R18-7-202(B), the Department shall issue a Letter of Completion, or an alternative closure document provided for by statute or rule that certifies the soil standards in this Article have been achieved.
- C.** The applicable Departmental program described in R18-7-202(A) or R18-7-202(B) may revoke or amend any Letter of Completion or alternative closure document described in R18-7-209(B) if any of the information submitted pursuant to R18-7-208 or R18-7-209(A) is inaccurate or if any condition was unknown to the Department when the Department issued the Letter of Completion or alternative closure document.

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency amendment reinstated at the request of the Department (see Supp. 97-1); historical note from Supp. 97-3 stating emergency expired removed for clarity. Section R18-7-208 adopted permanently effective December 4, 1997, replacing emergency rule (Supp. 97-4). Former R18-7-209 renumbered to R18-7-210; new R18-7-209 renumbered from R18-7-208 and amended by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

R18-7-210. Notice of Remediation and Repository

- A.** A person conducting soil remediation shall submit a Notice of Remediation to the applicable Departmental program listed in R18-7-202(A) or R18-7-202(B) before beginning remediation. A person conducting a soil remediation to address an immediate and substantial endangerment to public health or the environment and who has notified the Department in accordance with notification requirements prescribed in A.R.S. § 49-284 is not required to submit a Notice of Remediation before beginning remediation. Any person who continues soil remediation after the immediate and substantial endangerment has been abated shall submit a Notice of Remediation. A Notice of Remediation shall include all of the following information:
1. The name and address of the real property owner;
 2. The name and address of the remediating party;
 3. A legal description and street address of the property;
 4. A list of each contaminant to be remediated;
 5. The background concentration, SRL, or site-specific remediation level selected to meet the remediation standards;
 6. A description of the current and post-remediation property use as either residential or non-residential;
 7. The rationale for the selection of residential or non-residential remediation; and
 8. The proposed technologies for remediating the site.
- B.** The Department shall maintain a repository available to the public for information regarding sites where soil is remediated. The Repository shall include a listing of sites for which a Notice of Remediation has been submitted or a Letter of Completion or alternative closure document has been issued.
1. For sites where a Notice of Remediation has been filed, the Repository shall contain the date the notice was filed and the information submitted as described in subsection (A).
 2. For sites where a Letter of Completion or alternative closure document has been issued, the Repository shall contain the following:
 - a. The name and address of the real property owner;
 - b. The name and address of the remediating party;
 - c. A legal description and street address of the property;
 - d. A listing of each contaminant that was remediated;
 - e. The background concentration, SRL, or site-specific remediation level selected to meet the remediation standard;
 - f. A description whether the residential or non-residential standard was achieved;
 - g. A description of any engineering or institutional control used to remediate the site; and
 - h. The date when the Letter of Completion or alternative closure document was issued.

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency amendment reinstated at the request of the Department (see Supp. 97-1); historical note from Supp. 97-3 stating emergency expired removed for clarity. Section R18-7-208 adopted permanently effective December 4, 1997, replacing emergency rule (Supp. 97-4). Section R18-7-210 renumbered from R18-7-209 and amended by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

Appendix A. Soil Remediation Levels (SRLs)

CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Acephate	30560-19-1	ca, nc	63	630	240	2,000
Acetaldehyde	75-07-0	ca, nc	11	110	50	160
Acetochlor	34256-82-1	nc			1,200	12,000
Acetone	67-64-1	nc			14,000	54,000
Acetone cyanohydrin	75-86-5	nc			49	490
Acetonitrile	75-05-8	nc			420	1,800
Acrolein	107-02-8	nc			0.10	0.34
Acrylamide	79-06-1	ca, nc	0.12	1.2		3.8
Acrylic acid	79-10-7	nc			29,000	270,000
Acrylonitrile	107-13-1	ca, nc	0.21	2.1		4.9
Alachlor	15972-60-8	ca, nc	6.8	68		210
Alar	1596-84-5	nc			9,200	92,000
Aldicarb	116-06-3	nc			61	620
Aldicarb sulfone	1646-88-4	nc			61	620
Aldrin	309-00-2	ca, nc	0.032	0.32		1.0
Ally	74223-64-6	nc			15,000	150,000
Allyl alcohol	107-18-6	nc			310	3,100
Allyl chloride	107-05-1	nc			18	180
Aluminum	7429-90-5	nc			76,000	920,000
Aluminum phosphide	20859-73-8	nc			31	410
Amdro	67485-29-4	nc			18	180
Ametryn	834-12-8	nc			550	5,500
Aminodinitrotoluene	1321-12-6	nc			12	120
m-Aminophenol	591-27-5	nc			4,300	43,000
4-Aminopyridine	504-24-5	nc			1.2	12
Amitraz	33089-61-1	nc			150	1,500
Ammonium sulfamate	7773-06-0	nc			12,000	120,000
Aniline	62-53-3	ca, nc	96	960	430	3,000
Antimony and compounds	7440-36-0	nc			31	410
Apollo	74115-24-5	nc			790	8,000
Aramite	140-57-8	ca, nc	22	220		690
Arsenic¹	7440-38-2	ca, nc	10	10	10	10
Assure	76578-12-6	nc			550	5,500

CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Asulam	3337-71-1	nc			3,100	31,000
Atrazine	1912-24-9	ca, nc	2.5	25		78
Avermectin B1	71751-41-2	nc			24	250
Azobenzene	103-33-3	ca	5.0	50		160
Barium and compounds	7440-39-3	nc			15,000	170,000
Baygon	114-26-1	nc			240	2,500
Bayleton	43121-43-3	nc			1,800	18,000
Baythroid	68359-37-5	nc			1,500	15,000
Benefin	1861-40-1	nc			18,000	180,000
Benomyl	17804-35-2	nc			3,100	31,000
Bentazon	25057-89-0	nc			1,800	18,000
Benzaldehyde	100-52-7	nc			6,100	62,000
Benzene	71-43-2	ca, nc	0.65	NA		1.4
Benzidine	92-87-5	ca, nc	0.0024	NA		0.0075
Benzoic acid	65-85-0	nc			240,000	1,000,000 **
Benzotrichloride	98-07-7	ca	0.042	0.42		1.3
Benzyl alcohol	100-51-6	nc			18,000	180,000
Benzyl chloride	100-44-7	ca, nc	0.92	9.2		22
Beryllium and compounds	7440-41-7	ca, nc			150	1,900
Bidrin	141-66-2	nc			6.1	62
Biphenthrin (Talstar)	82657-04-3	nc			920	9,200
1,1-Biphenyl	92-52-4	nc			350 *	350 *
Bis(2-chloroethyl)ether	111-44-4	ca	0.23	2.3		5.8
Bis(2-chloroisopropyl)ether	39638-32-9	nc			790 *	790 *
Bis(chloromethyl)ether	542-88-1	ca	0.00020	NA		0.00043
Bis(2-chloro-1-methylethyl)ether	108-60-1	ca, nc	3.0	30		74
Bis(2-ethylhexyl)phthalate (DEHP)	117-81-7	ca, nc	39	390		1200
Bisphenol A	80-05-7	nc			3,100	31,000
Boron	7440-42-8	nc			16,000	200,000
Bromate	15541-45-4	ca, nc	0.78	7.8		25
Bromobenzene	108-86-1	nc			28	92
Bromodichloromethane	75-27-4	ca, nc	0.83	8.3		18
Bromoform (tribromomethane)	75-25-2	ca, nc	69	690		2,200
Bromomethane (methyl bromide)	74-83-9	nc			3.9	13
Bromophos	2104-96-3	nc			310	3,100

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CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Bromoxynil	1689-84-5	nc			1,200	12,000
Bromoxynil octanoate	1689-99-2	nc			1,200	12,000
1,3-Butadiene	106-99-0	ca, nc	0.058	0.58		1.2
1-Butanol	71-36-3	nc			6,100	61,000
Butylate	2008-41-5	nc			3,100	31,000
n-Butylbenzene	104-51-8	nc			240 *	240 *
sec-Butylbenzene	135-98-8	nc			220 *	220 *
tert-Butylbenzene	98-06-6	nc			390 *	390 *
Butyl benzyl phthalate	85-68-7	nc			12,000	120,000
Butylphthalyl butylglycolate	85-70-1	nc			61,000	620,000
Cadmium and compounds	7440-43-9	ca, nc			39	510
Caprolactam	105-60-2	nc			31,000	310,000
Captafol	2425-06-1	ca, nc	64	640	120	1,200
Captan	133-06-2	ca, nc	160	1,600		4,900
Carbaryl	63-25-2	nc			6,100	62,000
Carbazole	86-74-8	ca	27	270		860
Carbofuran	1563-66-2	nc			310	3,100
Carbon disulfide	75-15-0	nc			360	720 *
Carbon tetrachloride	56-23-5	ca, nc	0.25	2.5	2.2	5.5
Carbosulfan	55285-14-8	nc			610	6,200
Carboxin	5234-68-4	nc			6,100	62,000
Chloral hydrate	302-17-0	nc			6,100	62,000
Chloramben	133-90-4	nc			920	9,200
Chloranil	118-75-2	ca	1.4	14		43
Chlordane	12789-03-6	ca, nc	1.9	19		65
Chlorimuron-ethyl	90982-32-4	nc			1,200	12,000
Chloroacetic acid	79-11-8	nc			120	1,200
2-Chloroacetophenone	532-27-4	nc			0.033	0.11
4-Chloroaniline	106-47-8	nc			240	2,500
Chlorobenzene	108-90-7	nc			150	530
Chlorobenzilate	510-15-6	ca, nc	2.0	20		64
p-Chlorobenzoic acid	74-11-3	nc			12,000	120,000
4-Chlorobenzotrifluoride	98-56-6	nc			1,200	12,000
2-Chloro-1,3-butadiene	126-99-8	nc			3.6	12
1-Chlorobutane	109-69-3	nc			480 *	480 *

CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
1-Chloro-1,1-difluoroethane	75-68-3	nc			340 *	340 *
Chlorodifluoromethane	75-45-6	nc			340 *	340 *
Chloroethane	75-00-3	ca, nc	3.0	30		65
Chloroform	67-66-3	ca, nc	0.94	9.4		20
Chloromethane	74-87-3	nc			48	160
4-Chloro-2-methylaniline	95-69-2	ca	0.94	9.4		30
4-Chloro-2-methylaniline hydrochloride	3165-93-3	ca	1.2	12		37
beta-Chloronaphthalene	91-58-7	nc			110 *	110 *
o-Chloronitrobenzene	88-73-3	ca, nc			1.4	4.5
p-Chloronitrobenzene	100-00-5	ca, nc			10	37
2-Chlorophenol	95-57-8	nc			63	240
2-Chloropropane	75-29-6	nc			170	590
Chlorothalonil	1897-45-6	ca, nc	50	500		1600
o-Chlorotoluene	95-49-8	nc			160	510 *
Chlorpropham	101-21-3	nc			12,000	120,000
Chlorpyrifos	2921-88-2	nc			180	1,800
Chlorpyrifos-methyl	5598-13-0	nc			610	6,200
Chlorsulfuron	64902-72-3	nc			3,100	31,000
Chlorthiophos	60238-56-4	nc			49	490
Chromium III	16065-83-1	nc			120,000	1,000,000 **
Chromium VI	18540-29-9	ca, nc	30	NA		65
Cobalt	7440-48-4	ca, nc	900	9,000	1,400	13,000
Copper and compounds	7440-50-8	nc			3,100	41,000
Crotonaldehyde	123-73-9	ca	0.0053	0.053		0.11
Cumene (isopropylbenzene)	98-82-8	nc			92 *	92 *
Cyanazine	21725-46-2	ca, nc	0.65	6.5		21
Cyanide (free) ²	57-12-5	nc			1,200	12,000
Cyanide (hydrogen) ³	74-90-8	nc			11	35
Cyanogen	460-19-5	nc			130	430
Cyanogen bromide	506-68-3	nc			290	970
Cyanogen chloride	506-77-4	nc			160	540
Cyclohexane	110-82-7	nc			140 *	140 *
Cyclohexanone	108-94-1	nc			310,000	1,000,000 **
Cyclohexylamine	108-91-8	nc			12,000	120,000
Cyhalothrin/Karate	68085-85-8	nc			310	3,100

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CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Cypermethrin	52315-07-8	nc			610	6,200
Cyromazine	66215-27-8	nc			460	4,600
Dacthal	1861-32-1	nc			610	6,200
Dalapon	75-99-0	nc			1,800	18,000
Danitol	39515-41-8	nc			1,500	15,000
DDD	72-54-8	ca	2.8	28		100
DDE	72-55-9	ca	2.0	20		70
DDT	50-29-3	ca, nc	2.0	20		70
Decabromodiphenyl ether	1163-19-5	nc			610	6,200
Demeton	8065-48-3	nc			2.4	25
Diallate	2303-16-4	ca	9.0	90		280
Diazinon	333-41-5	nc			55	550
Dibenzofuran	132-64-9	nc			140 *	140 *
1,4-Dibromobenzene	106-37-6	nc			610	6,200
Dibromochloromethane	124-48-1	ca, nc	1.1	11		26
1,2-Dibromo-3-chloropropane	96-12-8	ca, nc	0.53	5.3	1.5	6.5
1,2-Dibromoethane	106-93-4	ca, nc	0.029	0.29		0.63
Dibutyl phthalate	84-74-2	nc			6,100	62,000
Dicamba	1918-00-9	nc			1,800	18,000
1,2-Dichlorobenzene	95-50-1	nc			600 *	600 *
1,3-Dichlorobenzene	541-73-1	nc			530	600 *
1,4-Dichlorobenzene	106-46-7	ca, nc	3.5	35		79
3,3-Dichlorobenzidine	91-94-1	ca	1.2	12		38
4,4'-Dichlorobenzophenone	90-98-2	nc			1,800	18,000
1,4-Dichloro-2-butene	764-41-0	ca	0.0080	0.080		0.18
Dichlorodifluoromethane	75-71-8	nc			94	310
1,1-Dichloroethane	75-34-3	nc			510	1,700 *
1,2-Dichloroethane (DCA)	107-06-2	ca, nc	0.28	2.8		6.0
1,1-Dichloroethylene (DCE)	75-35-4	nc			120	410
1,2-Dichloroethylene (cis)	156-59-2	nc			43	150
1,2-Dichloroethylene (trans)	156-60-5	nc			69	230
2,4-Dichlorophenol	120-83-2	nc			180	1,800
4-(2,4-Dichlorophenoxy)butyric acid	94-82-6	nc			490	4,900
2,4-Dichlorophenoxyacetic Acid (2,4-D)	94-75-7	nc			690	7,700
1,2-Dichloropropane	78-87-5	ca, nc	0.34	3.4		7.4

CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
1,3-Dichloropropane	142-28-9	nc			100	360
1,3-Dichloropropene	542-75-6	ca, nc	0.79	7.9		18
2,3-Dichloropropanol	616-23-9	nc			180	1,800
Dichlorvos	62-73-7	ca, nc	1.9	19		59
Dicofol	115-32-2	ca	1.2	12		39
Dicyclopentadiene	77-73-6	nc			0.54	1.8
Dieldrin	60-57-1	ca, nc	0.034	0.34		1.1
Diethylene glycol, monobutyl ether	112-34-5	nc			610	6,200
Diethylene glycol, monomethyl ether	111-90-0	nc			3,700	37,000
Diethylformamide	617-84-5	nc			24	250
Di(2-ethylhexyl)adipate	103-23-1	ca, nc	460	4,600		14,000
Diethyl phthalate	84-66-2	nc			49,000	490,000
Diethylstilbestrol	56-53-1	ca	0.00012	NA		0.0037
Difenzoquat (Avenge)	43222-48-6	nc			4,900	49,000
Diflubenzuron	35367-38-5	nc			1,200	12,000
Diisononyl phthalate	28553-12-0	nc			1,200	12,000
Diisopropyl methylphosphonate	1445-75-6	nc			4,900	49,000
Dimethipin	55290-64-7	nc			1,200	12,000
Dimethoate	60-51-5	nc			12	120
3,3'-Dimethoxybenzidine	119-90-4	ca	39	390		1,200
Dimethylamine	124-40-3	nc			0.067	0.25
N-N-Dimethylaniline	121-69-7	nc			120	1,200
2,4-Dimethylaniline	95-68-1	ca	0.73	7.3		23
2,4-Dimethylaniline hydrochloride	21436-96-4	ca	0.94	9.4		30
3,3'-Dimethylbenzidine	119-93-7	ca	0.24	2.4		7.5
N,N-Dimethylformamide	68-12-2	nc			6,100	62,000
Dimethylphenethylamine	122-09-8	nc			61	620
2,4-Dimethylphenol	105-67-9	nc			1,200	12,000
2,6-Dimethylphenol	576-26-1	nc			37	370
3,4-Dimethylphenol	95-65-8	nc			61	620
Dimethyl phthalate	131-11-3	nc			610,000	1,000,000 **
Dimethyl terephthalate	120-61-6	nc			6,100	62,000
4,6-Dinitro-o-cyclohexyl phenol	131-89-5	nc			120	1,200
1,2-Dinitrobenzene	528-29-0	nc			6.1	62
1,3-Dinitrobenzene	99-65-0	nc			6.1	62

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CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
1,4-Dinitrobenzene	100-25-4	nc			6.1	62
2,4-Dinitrophenol	51-28-5	nc			120	1,200
Dinitrotoluene mixture	25321-14-6	ca	0.81	8.1		25
2,4-Dinitrotoluene	121-14-2	nc			120	1,200
2,6-Dinitrotoluene	606-20-2	nc			61	620
Dinoseb	88-85-7	nc			61	620
di-n-Octyl phthalate	117-84-0	nc			2,400	25,000
1,4-Dioxane	123-91-1	ca	50	500		1,600
Dioxin (2,3,7,8-TCDD)	1746-01-6	ca	0.0000045	0.000045		0.00016
Diphenamid	957-51-7	nc			1,800	18,000
Diphenylamine	122-39-4	nc			1,500	15,000
N,N-Diphenyl-1,4 benzenediamine (DPPD)	74-31-7	nc			18	180
1,2-Diphenylhydrazine	122-66-7	ca	0.68	6.8		22
Diphenyl sulfone	127-63-9	nc			180	1,800
Diquat	85-00-7	nc			130	1,400
Direct black 38	1937-37-7	ca	0.064	NA		0.20
Direct blue 6	2602-46-2	ca	0.068	NA		0.21
Direct brown 95	16071-86-6	ca	0.059	NA		0.19
Disulfoton	298-04-4	nc			2.4	25
1,4-Dithiane	505-29-3	nc			610	6,200
Diuron	330-54-1	nc			120	1,200
Dodine	2439-10-3	nc			240	2,500
Dysprosium	7429-91-6	nc			7,800	102,000
Endosulfan	115-29-7	nc			370	3,700
Endothall	145-73-3	nc			1,200	12,000
Endrin	72-20-8	nc			18	180
Epichlorohydrin	106-89-8	ca, nc			7.6	26
1,2-Epoxybutane	106-88-7	nc			350	3,500
EPTC (S-Ethyl dipropylthiocarbamate)	759-94-4	nc			1,500	15,000
Ethephon (2-chloroethyl phosphonic acid)	16672-87-0	nc			310	3,100
Ethion	563-12-2	nc			31	310
2-Ethoxyethanol	110-80-5	nc			24,000	250,000
2-Ethoxyethanol acetate	111-15-9	nc			18,000	180,000
Ethyl acetate	141-78-6	nc			19,000	37,000 *
Ethyl acrylate	140-88-5	ca	0.21	2.1		4.5

CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Ethylbenzene	100-41-4	nc			400 *	400 *
Ethyl chloride	75-00-3	ca, nc	3.0	30		65
Ethylene cyanohydrin	109-78-4	nc			18,000	180,000
Ethylene diamine	107-15-3	nc			5,500	55,000
Ethylene glycol	107-21-1	nc			120,000	1,000,000 **
Ethylene glycol, monobutyl ether	111-76-2	nc			31,000	310,000
Ethylene oxide	75-21-8	ca	0.14	1.4		3.4
Ethylene thiourea (ETU)	96-45-7	ca, nc			4.9	49
Ethyl ether	60-29-7	nc			1,800 *	1,800 *
Ethyl methacrylate	97-63-2	nc			140 *	140 *
Ethyl p-nitrophenyl phenylphosphorothioate	2104-64-5	nc			0.61	6.2
Ethylphthalyl ethyl glycolate	84-72-0	nc			180,000	1,000,000 **
Express	101200-48-0	nc			490	4,900
Fenamiphos	22224-92-6	nc			15	150
Fluometuron	2164-17-2	nc			790	8,000
Fluoride	16984-48-8	nc			3,700	37,000
Fluoridone	59756-60-4	nc			4,900	49,000
Flurprimidol	56425-91-3	nc			1,200	12,000
Flutolanil	66332-96-5	nc			3,700	37,000
Fluvalinate	69409-94-5	nc			610	6,200
Folpet	133-07-3	ca, nc	160	1,600		4,900
Fomesafen	72178-02-0	ca	2.9	29		91
Fonofos	944-22-9	nc			120	1,200
Formaldehyde	50-00-0	ca, nc			9,200	92,000
Formic Acid	64-18-6	nc			110,000	1,000,000 **
Fosetyl-al	39148-24-8	nc			180,000	1,000,000 **
Furan	110-00-9	nc			2.5	8.5
Furazolidone	67-45-8	ca	0.14	1.4		4.5
Furfural	98-01-1	nc			180	1,800
Furium	531-82-8	ca	0.011	0.11		0.34
Furmecyclox	60568-05-0	ca	18	180		570
Glufosinate-ammonium	77182-82-2	nc			24	250
Glycidaldehyde	765-34-4	nc			24	250
Glyphosate	1071-83-6	nc			6,100	62,000
Haloxypop-methyl	69806-40-2	nc			3.1	31

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CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Harmony	79277-27-3	nc			790	8,003
Heptachlor	76-44-8	ca, nc	0.12	1.2		3.8
Heptachlor epoxide	1024-57-3	ca, nc	0.060	0.60		1.9
Hexabromobenzene	87-82-1	nc			120	1,200
Hexachlorobenzene	118-74-1	ca, nc	0.34	3.4		11
Hexachlorobutadiene	87-68-3	ca, nc	7.0	70	18	180
HCH (alpha)	319-84-6	ca, nc	0.10	1.0		3.6
HCH (beta)	319-85-7	ca, nc	0.36	3.6		13
HCH (gamma) Lindane	58-89-9	ca, nc	0.50	5.0		17
HCH-technical	608-73-1	ca	0.36	3.6		13
Hexachlorocyclopentadiene	77-47-4	nc			370	3,700
Hexachloroethane	67-72-1	ca, nc	39	390	61	620
Hexachlorophene	70-30-4	nc			18	180
Hexahydro-1,3,5-trinitro-1,3,5-triazine	121-82-4	ca, nc	5.0	50		160
1,6-Hexamethylene diisocyanate	822-06-0	nc			0.17	1.8
n-Hexane	110-54-3	nc			110 *	110 *
Hexazinone	51235-04-2	nc			2,020	20,000
Hydrazine, hydrazine sulfate	302-01-2	ca	0.18	1.8		5.7
Hydrazine, monomethyl	60-34-4	ca	0.18	1.8		5.7
Hydrazine, dimethyl	57-14-7	ca	0.18	1.8		5.7
p-Hydroquinone	123-31-9	ca, nc	9.8	98		310
Imazalil	35554-44-0	nc			790	8,000
Imazaquin	81335-37-7	nc			15,000	150,000
Iprodione	36734-19-7	nc			2,400	25,000
Isobutanol	78-83-1	nc			13,000	40,000 *
Isophorone	78-59-1	ca, nc	580	5,800		18,000
Isopropalin	33820-53-0	nc			920	9,200
Isopropyl methyl phosphonic acid	1832-54-8	nc			6,100	62,000
Isoxaben	82558-50-7	nc			3,100	31,000
Kepone	143-50-0	ca, nc	0.068	0.68		2.2
Lactofen	77501-63-4	nc			120	1,200
Lead	7439-92-1	ca, nc			400	800
Lead (tetraethyl)	78-00-2	nc			0.0061	0.062
Linuron	330-55-2	nc			120	1,200
Lithium	7439-93-2	nc			1,600	20,000

CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Londax	83055-99-6	nc			12,000	120,000
Malathion	121-75-5	nc			1,200	12,000
Maleic anhydride	108-31-6	nc			6,100	62,000
Maleic hydrazide	123-33-1	nc			1,700	2,400 *
Malononitrile	109-77-3	nc			6.1	62
Mancozeb	8018-01-7	nc			1,800	18,000
Maneb	12427-38-2	ca, nc	9.1	91		290
Manganese	7439-96-5	nc			3,300	32,000
Mephosfolan	950-10-7	nc			5.5	55
Mepiquat	24307-26-4	nc			1,800	18,000
2-Mercaptobenzothiazole	149-30-4	ca, nc	19	190		590
Mercury and compounds	7487-94-7	nc			23	310
Mercury (methyl)	22967-92-6	nc			6.1	62
Merphos	150-50-5	nc			1.8	18
Merphos oxide	78-48-8	nc			1.8	18
Metalaxyl	57837-19-1	nc			3,700	37,000
Methacrylonitrile	126-98-7	nc			2.1	8.4
Methamidophos	10265-92-6	nc			3.1	31
Methanol	67-56-1	nc			31,000	310,000
Methidathion	950-37-8	nc			61	620
Methomyl	16752-77-5	nc			44	150
Methoxychlor	72-43-5	nc			310	3,100
2-Methoxyethanol	109-86-4	nc			61	620
2-Methoxyethanol acetate	110-49-6	nc			120	1,200
2-Methoxy-5-nitroaniline	99-59-2	ca	12	120		370
Methyl acetate	79-20-9	nc			22,000	92,000
Methyl acrylate	96-33-3	nc			70	230
2-Methylaniline (o-toluidine)	95-53-4	ca	2.3	23		72
2-Methylaniline hydrochloride	636-21-5	ca	3.0	30		96
2-Methyl-4-chlorophenoxyacetic acid	94-74-6	nc			31	310
4-(2-Methyl-4-chlorophenoxy) butyric acid (MCPB)	94-81-5	nc			610	6,200
2-(2-Methyl-4-chlorophenoxy) propionic acid	93-65-2	nc			61	620
2-(2-Methyl-1,4-chlorophenoxy) propionic acid (MCPP)	16484-77-8	nc			61	620

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CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Methylcyclohexane	108-87-2	nc			230 *	230 *
4,4'-Methylenebisbenzeneamine	101-77-9	ca	2.2	22		69
4,4'-Methylene bis(2-chloroaniline)	101-14-4	ca, nc	4.2	42		130
4,4'-Methylene bis(N,N'-dimethyl) aniline	101-61-1	ca	12	120		370
Methylene bromide	74-95-3	nc			67	230
Methylene chloride	75-09-2	ca, nc	9.3	93		210
4,4'-Methylenediphenyl diisocyanate	101-68-8	nc			10	110
Methyl ethyl ketone (MEK)	78-93-3	nc			23,000	34,000 *
Methyl isobutyl ketone (MIBK)	108-10-1	nc			5,300	17,000 *
Methyl mercaptan	74-93-1	nc			35	350
Methyl methacrylate	80-62-6	nc			2,200	2,700 *
2-Methyl-5-nitroaniline	99-55-8	ca	17	170		520
Methyl parathion	298-00-0	nc			15	150
2-Methylphenol	95-48-7	nc			3,100	31,000
3-Methylphenol	108-39-4	nc			3,100	31,000
4-Methylphenol	106-44-5	nc			310	3,100
Methyl phosphonic acid	993-13-5	nc			1,200	12,000
Methyl styrene (mixture)	25013-15-4	nc			130	540
Methyl styrene (alpha)	98-83-9	nc			680 *	680 *
Methyl tertbutyl ether (MTBE)	1634-04-4	ca, nc	32	320		710
Metolaclo (Dual)	51218-45-2	nc			9,200	92,000
Metribuzin	21087-64-9	nc			1,500	15,000
Mirex	2385-85-5	ca, nc	0.30	3.0		9.6
Molinate	2212-67-1	nc			120	1,200
Molybdenum	7439-98-7	nc			390	5,100
Monochloramine	10599-90-3	nc			6,100	62,000
Naled	300-76-5	nc			120	1,200
Napropamide	15299-99-7	nc			6,100	62,000
Nickel and compounds	7440-02-0	nc			1,600	20,000
Nickel subsulfide	12035-72-2	ca	5,200	NA		11,000
2-Nitroaniline	88-74-4	nc			180	1,800
3-Nitroaniline	99-09-2	ca, nc			18	180
4-Nitroaniline	100-01-6	ca, nc	26	260	180	820
Nitrobenzene	98-95-3	nc			20	100
Nitrofurantoin	67-20-9	nc			4,300	43,000

CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Nitrofurazone	59-87-0	ca	0.37	3.7		11
Nitroglycerin	55-63-0	ca	39	390		1,200
Nitroguanidine	556-88-7	nc			6,100	62,000
2-Nitropropane	79-46-9	ca, nc	0.0028	0.028		0.061
N-Nitrosodi-n-butylamine	924-16-3	ca	0.025	0.25		0.58
N-Nitrosodiethanolamine	1116-54-7	ca	0.20	2.0		6.2
N-Nitrosodiethylamine	55-18-5	ca	0.0037	0.037		0.11
N-Nitrosodimethylamine	62-75-9	ca, nc	0.011	0.11		0.34
N-Nitrosodiphenylamine	86-30-6	ca, nc	110	1,100		3,500
N-Nitroso di-n-propylamine	621-64-7	ca	0.078	0.78		2.5
N-Nitroso-N-methylethylamine	10595-95-6	ca	0.025	0.25		0.78
N-Nitrosopyrrolidine	930-55-2	ca	0.26	2.6		8.2
m-Nitrotoluene	99-08-1	nc			730	1,000 *
o-Nitrotoluene	88-72-2	ca, nc	0.93	9.3		22
p-Nitrotoluene	99-99-0	ca, nc	13	130		300
Norflurazon	27314-13-2	nc			2,400	25,000
NuStar	85509-19-9	nc			43	430
Octabromodiphenyl ether	32536-52-0	nc			180	1,800
Octahydro-1357-tetranitro-1357-tetrazocine (HMX)	2691-41-0	nc			3,100	31,000
Octamethylpyrophosphoramidate	152-16-9	nc			120	1,200
Oryzalin	19044-88-3	nc			3,100	31,000
Oxadiazon	19666-30-9	nc			310	3,100
Oxamyl	23135-22-0	nc			1,500	15,000
Oxyfluorfen	42874-03-3	nc			180	1,800
Paclobutrazol	76738-62-0	nc			790	8,000
Paraquat	4685-14-7	nc			270	2,800
Parathion	56-38-2	nc			370	3,700
Pebulate	1114-71-2	nc			3,100	31,000
Pendimethalin	40487-42-1	nc			2,400	25,000
Pentabromo-6-chloro cyclohexane	87-84-3	ca	24	240		750
Pentabromodiphenyl ether	32534-81-9	nc			120	1,200
Pentachlorobenzene	608-93-5	nc			49	490
Pentachloronitrobenzene	82-68-8	ca, nc	2.1	21		66
Pentachlorophenol	87-86-5	ca, nc	3.2	32		90
Perchlorate	7601-90-3	nc			55	720

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CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Permethrin	52645-53-1	nc			3,100	31,000
Phenmedipham	13684-63-4	nc			15,000	150,000
Phenol	108-95-2	nc			18,000	180,000
Phenothiazine	92-84-2	nc			120	1,200
m-Phenylenediamine	108-45-2	nc			370	3,700
o-Phenylenediamine	95-54-5	ca	12	120		370
p-Phenylenediamine	106-50-3	nc			12,000	120,000
Phenylmercuric acetate	62-38-4	nc			4.9	49
2-Phenylphenol	90-43-7	ca	280	2,800		8,900
Phorate	298-02-2	nc			12	120
Phosmet	732-11-6	nc			1,200	12,000
Phosphine	7803-51-2	nc			18	180
Phosphorus (white)	7723-14-0	nc			1.6	20
p-Phthalic acid	100-21-0	nc			61,000	620,000
Phthalic anhydride	85-44-9	nc			120,000	1,000,000 **
Picloram	1918-02-1	nc			4,300	43,000
Pirimiphos-methyl	29232-93-7	nc			610	6,200
Polybrominated biphenyls (PBBs)	NA	ca, nc	0.062	0.62	0.43	1.9
Polychlorinated biphenyls (PCBs), low-risk mixture ⁴	12674-11-2	ca, nc			3.9	37
Polychlorinated biphenyls (PCBs), high-risk mixture ⁵	11097-69-1	ca, nc	0.25	2.5	1.1	7.4
Polychlorinated terphenyls	61788-33-8	ca	0.12	1.2		3.8
Polynuclear aromatic hydrocarbons						
Acenaphthene	83-32-9	nc			3,700	29,000
Anthracene	120-12-7	nc			22,000	240,000
Benz[a]anthracene	56-55-3	ca	0.69	6.9		21
Benzo[b]fluoranthene	205-99-2	ca	0.69	6.9		21
Benzo[k]fluoranthene	207-08-9	ca	6.9	69		210
Benzo[a]pyrene	50-32-8	ca	0.069	0.69		2.1
Chrysene	218-01-9	ca	68	680		2,000
Dibenz[ah]anthracene	53-70-3	ca	0.069	0.69		2.1
Fluoranthene	206-44-0	nc			2,300	22,000
Fluorene	86-73-7	nc			2,700	26,000
Indeno[1,2,3-cd]pyrene	193-39-5	ca	0.69	6.9		21
Naphthalene	91-20-3	nc			56	190

CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Pyrene	129-00-0	nc			2,300	29,000
Prochloraz	67747-09-5	ca, nc	3.7	37		110
Profluralin	26399-36-0	nc			370	3,700
Prometon	1610-18-0	nc			920	9,200
Prometryn	7287-19-6	nc			240	2,500
Pronamide	23950-58-5	nc			4,600	46,000
Propachlor	1918-16-7	nc			790	8,000
Propanil	709-98-8	nc			310	3,100
Propargite	2312-35-8	nc			1,200	12,000
Propargyl alcohol	107-19-7	nc			120	1,200
Propazine	139-40-2	nc			1,200	12,000
Propham	122-42-9	nc			1,200	12,000
Propiconazole	60207-90-1	nc			790	8,000
n-Propylbenzene	103-65-1	nc			240 *	240 *
Propylene glycol	57-55-6	nc			30,000	290,000
Propylene glycol, monoethyl ether	52125-53-8	nc			43,000	430,000
Propylene glycol, monomethyl ether	107-98-2	nc			43,000	430,000
Propylene oxide	75-56-9	ca, nc	2.2	22		66
Pursuit	81335-77-5	nc			15,000	150,000
Pydrin	51630-58-1	nc			1,500	15,000
Pyridine	110-86-1	nc			61	620
Quinalphos	13593-03-8	nc			31	310
Quinoline	91-22-5	ca	0.18	1.8		5.7
RDX (Cyclonite)	121-82-4	ca, nc	5.0	50		160
Resmethrin	10453-86-8	nc			1,800	18,000
Ronnel	299-84-3	nc			3,100	31,000
Rotenone	83-79-4	nc			240	2,500
Savey	78587-05-0	nc			1,500	15,000
Selenious Acid	7783-00-8	nc			310	3,100
Selenium	7782-49-2	nc			390	5,100
Selenourea	630-10-4	nc			310	3,100
Sethoxydim	74051-80-2	nc			5,500	55,000
Silver and compounds	7440-22-4	nc			390	5,100
Simazine	122-34-9	ca, nc	4.6	46		140
Sodium azide	26628-22-8	nc			310	4,100

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CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Sodium diethyldithiocarbamate	148-18-5	ca, nc	2.0	20		64
Sodium fluoroacetate	62-74-8	nc			1.2	12
Sodium metavanadate	13718-26-8	nc			61	620
Strontium, stable	7440-24-6	nc			47,000	610,000
Strychnine	57-24-9	nc			18	180
Styrene	100-42-5	nc			1,500 *	1,500 *
1,1'-Sulfonylbis-(4-chlorobenzene)	80-07-9	nc			310	3,100
Systhane	88671-89-0	nc			1,500	15,000
Tebuthiuron	34014-18-1	nc			4,300	43,000
Temephos	3383-96-8	nc			1,200	12,000
Terbacil	5902-51-2	nc			790	8,000
Terbufos	13071-79-9	nc			1.5	15
Terbutryn	886-50-0	nc			61	620
1,2,4,5-Tetrachlorobenzene	95-94-3	nc			18	180
1,1,1,2-Tetrachloroethane	630-20-6	ca, nc	3.2	32		73
1,1,1,2,2-Tetrachloroethane	79-34-5	ca, nc	0.42	4.2		9.3
Tetrachloroethylene (PCE)	127-18-4	ca, nc	0.51	5.1		13
2,3,4,6-Tetrachlorophenol	58-90-2	nc			1,800	18,000
p,a,a,a-Tetrachlorotoluene	5216-25-1	ca	0.027	0.27		0.86
Tetrachlorovinphos	961-11-5	ca, nc	23	230		720
Tetraethyldithiopyrophosphate	3689-24-5	nc			31	310
Tetrahydrofuran	109-99-9	ca, nc	9.5	95		210
Thallium and compounds	7440-28-0	nc			5.2	67
Thiobencarb	28249-77-6	nc			610	6,200
Thiocyanate	NA	nc			3,100	31,000
Thiofanox	39196-18-4	nc			18	180
Thiophanate-methyl	23564-05-8	nc			4,900	49,000
Thiram	137-26-8	nc			310	3,100
Tin	7440-31-5	nc			47,000	610,000
Titanium	7440-32-6	nc			310,000	1,000,000 **
Toluene	108-88-3	nc			650 *	650 *
Toluene-2,4-diamine	95-80-7	ca	0.17	1.7		5.4
Toluene-2,5-diamine	95-70-5	nc			37,000	370,000
Toluene-2,6-diamine	823-40-5	nc			12,000	120,000
p-Toluidine	106-49-0	ca	2.9	29		91

CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Toxaphene	8001-35-2	ca	0.50	5.0		16
Tralomethrin	66841-25-6	nc			460	4,600
Triallate	2303-17-5	nc			790	8,000
Triasulfuron	82097-50-5	nc			610	6,200
1,2,4-Tribromobenzene	615-54-3	nc			310	3,100
Tributyl phosphate	126-73-8	ca, nc	60	600		1,900
Tributyltin oxide (TBTO)	56-35-9	nc			18	180
2,4,6-Trichloroaniline	634-93-5	ca	16	160		510
2,4,6-Trichloroaniline hydrochloride	33663-50-2	ca	19	190		590
1,2,4-Trichlorobenzene	120-82-1	nc			62	220
1,1,1-Trichloroethane	71-55-6	nc			1,200 *	1,200 *
1,1,2-Trichloroethane	79-00-5	ca, nc	0.74	7.4		16
Trichloroethylene (TCE)	79-01-6	ca, nc	3.0	30	17	65
Trichlorofluoromethane	75-69-4	nc			390	1,300
2,4,5-Trichlorophenol	95-95-4	nc			6,100	62,000
2,4,6-Trichlorophenol	88-06-2	ca, nc			6.1	62
2,4,5-Trichlorophenoxyacetic Acid	93-76-5	nc			610	6,200
2-(2,4,5-Trichlorophenoxy) propionic acid	93-72-1	nc			490	4,900
1,1,2-Trichloropropane	598-77-6	nc			15	51
1,2,3-Trichloropropane	96-18-4	ca, nc	0.0050	0.050		0.11
1,2,3-Trichloropropene	96-19-5	nc			0.71	2.3
1,1,2-Trichloro-1,2,2-trifluoroethane (Freon 113)	76-13-1	nc			5,600 *	5,600 *
Tridiphane	58138-08-2	nc			180	1,800
Triethylamine	121-44-8	nc			23	86
Trifluralin	1582-09-8	ca, nc	71	710	460	2,200
Trimellitic Anhydride (TMAN)	552-30-7	nc			8.6	86
1,2,4-Trimethylbenzene	95-63-6	nc			52	170
1,3,5-Trimethylbenzene	108-67-8	nc			21	70
Trimethyl phosphate	512-56-1	ca	15	150		470
1,3,5-Trinitrobenzene	99-35-4	nc			1,800	18,000
Trinitrophenylmethylnitramine	479-45-8	nc			610	6,200
2,4,6-Trinitrotoluene	118-96-7	ca, nc	18	180	31	310
Triphenylphosphine oxide	791-28-6	nc			1,200	12,000
Tris(2-chloroethyl) phosphate	115-96-8	ca, nc	39	390		1,200
Tris(2-ethylhexyl) phosphate	78-42-2	ca, nc	170	1,700		5,400

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CONTAMINANT	CASRN	Class	Residential (mg/kg)			Non-residential (mg/kg)
			Carcinogen		Non-carcinogen	
			10 ⁻⁶ Risk	10 ⁻⁵ Risk		
Uranium (chemical toxicity only)	7440-61-0	nc			16	200
Vanadium and compounds	7440-62-2	nc			78	1,000
Vernam	1929-77-7	nc			61	620
Vinclozolin	50471-44-8	nc			1,500	15,000
Vinyl acetate	108-05-4	nc			430	1,400
Vinyl bromide	593-60-2	ca, nc	0.19	1.9		4.2
Vinyl chloride	75-01-4	ca, nc	0.085	NA		0.75
Warfarin	81-81-2	nc			18	180
Xylenes	1330-20-7	nc			270	420 *
Zinc	7440-66-6	nc			23,000	310,000
Zinc phosphide	1314-84-7	nc			23	310
Zineb	12122-67-7	nc			3,100	31,000
NA indicates not applicable.						
Class is the classification of the chemical. “ca” indicates carcinogenic effects; “nc” indicates non-carcinogenic effects. Chemicals that have both carcinogenic and non-carcinogenic effects are classified “ca, nc”.						
* Indicates SRL is based on the chemical-specific saturation level in soil for volatile organic chemicals only.						
** Indicates SRL is based on a 100% saturation ceiling limit for non-volatile organic chemicals.						
¹ Arsenic standards are not risk-based standards, but based on background.						
² Cyanide (free): Free cyanide is a subset of total cyanides. If any ADHS approved method for total cyanide reports a concentration exceeding this standard, further analyses to differentiate free cyanide from other cyanide metal complexes is required.						
³ Cyanide (hydrogen): If the cyanide concentrations using any method exceed the hydrogen cyanide standard, then hydrogen cyanide vapor samples should be collected at the site.						
⁴ PCBs, low-risk mixture: Use if laboratory analysis confirms that the total PCB concentration consists of 0.5 percent or less of congeners that contain five or more chlorines and that no dioxin-like congeners are present.						
⁵ PCBs, high-risk mixture: Use if only total PCB concentration is reported by any ADHS licensed analytical method, or if laboratory analysis confirms that the total PCB concentration consists of more than 0.5 percent congeners that contain five or more chlorines or that dioxin-like congeners are present.						
Bold indicates adequate evidence to classify the chemical as a known human carcinogen.						
CASRN is the Chemical Abstract System Registry Number.						

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency appendix reinstated at the request of the Department; historical note from Supp. 97-3 stating emergency expired removed for clarity. Appendix A adopted permanently effective December 4, 1997, replacing emergency appendix (Supp. 97-4). Amended to correct measurement units in columns 5 and 6 from “mg/k” to “mg/kg” (Supp. 01-4). Former Appendix A renumbered to Appendix B; new Appendix A made by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

Appendix B. 1997 Soil Remediation Levels (SRLs)

	Chemical Name	CAS Number	Cancer Group	Residential (mg/kg)	Non-residential (mg/kg)
A					
1	Acenaphthene	83-32-9	D	3900.0	41000.0
2	Acephate	30560-19-1	C	260.0	2200.0
3	Acetaldehyde	75-07-0	B2	39.0	150.0
4	Acetochlor	34256-82-1	D	1300.0	14000.0
5	Acetone	67-64-1	D	2100.0	8800.0
6	Acetone cyanohydrin	75-86-5	D	52.0	550.0
7	Acetonitrile	75-05-8	D	220.0	1200.0
8	Acetophenone	98-86-2	D	0.49	1.6
9	Acifluorfen	62476-59-9	D	850.0	8900.0
10	Acrolein	107-02-8	C	0.10	0.34
11	Acrylamide	79-06-1	B2	0.98	4.2
12	Acrylic acid	79-10-7	D	31000.0	290000.0
13	Acrylonitrile	107-13-1	B1	1.9	4.7
14	Alachlor	15972-60-8	B2	55.0	240.0
15	Alar	1596-84-5	D	9800.0	100000.0
16	Aldicarb	116-06-3	D	65.0	680.0
17	Aldicarb sulfone	1646-88-4	D	65.0	680.0
18	Aldrin	309-00-2	B2	0.26	1.1
19	Ally	74223-64-6	D	16000.0	170000.0
20	Allyl alcohol	107-18-6	D	330.0	3400.0
21	Allyl chloride	107-05-1	C	3200.0	33000.0
22	Aluminum	7429-90-5	D	77000.0	1000000.0
23	Aluminum phosphide	20859-73-8	D	31.0	680.0
24	Amdro	67485-29-4	D	20.0	200.0
25	Ametryn	834-12-8	D	590.0	6100.0
26	m-Aminophenol	591-27-5	D	4600.0	48000.0
27	4-Aminopyridine	504-24-5	D	1.3	14.0
28	Amitraz	33089-61-1	D	160.0	1700.0
29	Ammonia	7664-41-7	D	2200.0	58000.0
30	Ammonium sulfamate	7773-06-0	D	13000.0	140000.0
31	Aniline	62-53-3	B2	19.0	200.0
32	Anthracene	120-12-7	D	20000.0	200000.0
33	Antimony and compounds	7440-36-0	D	31.0	680.0
34	Antimony pentoxide	1314-60-9	D	38.0	850.0
35	Antimony potassium tartrate	28300-74-5	D	69.0	1500.0
36	Antimony tetroxide	1332-81-6	D	31.0	680.0
37	Antimony trioxide	1309-64-4	D	31.0	680.0
38	Apollo	74115-24-5	C	850.0	8900.0
39	Aramite	140-57-8	B2	180.0	760.0
40	~Arsenic	7440-38-2	A	10.0	10.0
41	Assure	76578-14-8	D	590.0	6100.0
42	Asulam	3337-71-1	D	3300.0	34000.0
43	Atrazine	1912-24-9	C	20.0	86.0
44	Avermectin B1	71751-41-2	D	26.0	270.0
45	Azobenzene	103-33-3	B2	40.0	170.0
B					
46	Barium and compounds	7440-39-3	D	5300.0	110000.0
47	Barium cyanide	542-62-1	D	7700.0	170000.0
48	Baygon	114-26-1	D	260.0	2700.0
49	Bayleton	43121-43-3	D	2000.0	20000.0
50	Baythroid	68359-37-5	D	1600.0	17000.0
51	Benefin	1861-40-1	D	20000.0	200000.0
52	Benomyl	17804-35-2	D	3300.0	34000.0
53	Bentazon	25057-89-0	D	160.0	1700.0
54	Benzaldehyde	100-52-7	D	6500.0	68000.0
55	Benz[a]anthracene	56-55-3	B2	6.1	26.0
56	Benzene	71-43-2	A	0.62	1.4

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	Chemical Name	CAS Number	Cancer Group	Residential (mg/kg)	Non-residential (mg/kg)
57	Benzidine	92-87-5	A	0.0019	0.0083
58	Benzo[a]pyrene	50-32-8	B2	0.61	2.6
59	Benzo[b]fluoranthene	205-99-2	B2	6.1	26.0
60	Benzoic acid	65-85-0	D	260000.0	1000000.0
61	Benzo[k]fluoranthene	207-08-9	B2	61.0	260.0
62	Benzotrichloride	98-07-7	B2	0.34	1.5
63	Benzyl alcohol	100-51-6	D	20000.0	200000.0
64	Benzyl chloride	100-44-7	B2	8.0	20.0
65	Beryllium and compounds	7440-41-7	B2	1.4	11.0
66	Bidrin	141-66-2	D	6.5	68.0
67	Biphenthrin (Talstar)	82657-04-3	D	980.0	10000.0
68	1,1-Biphenyl	92-52-4	D	3300.0	34000.0
69	Bis(2-chloroethyl)ether	111-44-4	B2	0.43	0.97
70	Bis(2-chloroisopropyl)ether	39638-32-9	C	25.0	67.0
71	Bis(chloromethyl)ether	542-88-1	A	0.0002	0.0004
72	Bis(2-chloro-1-methylethyl)ether	108-60-1	C	63.0	270.0
73	Bis(2-ethylhexyl)phthalate (DEHP)	117-81-7	B2	320.0	1400.0
74	Bisphenol A	80-05-7	D	3300.0	34000.0
75	Boron	7440-42-8	D	5900.0	61000.0
76	Bromodichloromethane	75-27-4	B2	6.3	14.0
77	Bromoform (tribromomethane)	75-25-2	B2	560.0	2400.0
78	Bromomethane	74-83-9	D	6.8	23.0
79	Bromophos	2104-96-3	D	330.0	3400.0
80	Bromoxynil	1689-84-5	D	1300.0	14000.0
81	Bromoxynil octanoate	1689-99-2	D	1300.0	14000.0
82	1,3-Butadiene	106-99-0	B2	0.064	0.14
83	1-Butanol	71-36-3	D	6500.0	68000.0
84	Butylate	2008-41-5	D	3300.0	34000.0
85	Butyl benzyl phthalate	85-68-7	C	13000.0	140000.0
86	Butylphthalyl butylglycolate	85-70-1	D	65000.0	680000.0
	C				
87	Cacodylic acid	75-60-5	D	200.0	2000.0
88	Cadmium and compounds	7440-43-9	B1	38.0	850.0
89	Calcium cyanide	592-01-8	D	3100.0	68000.0
90	Caprolactam	105-60-2	D	33000.0	340000.0
91	Captafol	2425-06-1	C	130.0	1400.0
92	Captan	133-06-2	D	1300.0	5500.0
93	Carbaryl	63-25-2	D	6500.0	68000.0
94	Carbazole	86-74-8	B2	220.0	950.0
95	Carbofuran	1563-66-2	E	330.0	3400.0
96	Carbon disulfide	75-15-0	D	7.5	24.0
97	Carbon tetrachloride	56-23-5	B2	1.6	5.0
98	Carbosulfan	55285-14-8	D	650.0	6800.0
99	Carboxin	5234-68-4	D	6500.0	68000.0
100	Chloral (hydrate)	302-17-0	D	130.0	1400.0
101	Chloramben	133-90-4	D	980.0	10000.0
102	Chloranil	118-75-2	C	11.0	47.0
103	Chlordane	12789-03-6	B2	3.4	15.0
104	Chlorimuron-ethyl	90982-32-4	D	1300.0	14000.0
105	Chlorine cyanide	506-77-4	D	3800.0	85000.0
106	Chloroacetic acid	79-11-8	D	130.0	1400.0
107	2-Chloroacetophenone	532-27-4	D	0.56	5.9
108	4-Chloroaniline	106-47-8	D	260.0	2700.0
109	Chlorobenzene	108-90-7	D	65.0	220.0
110	Chlorobenzilate	510-15-6	B2	16.0	71.0
111	p-Chlorobenzoic acid	74-11-3	D	13000.0	140000.0
112	4-Chlorobenzotrifluoride	98-56-6	D	1300.0	14000.0
113	2-Chloro-1,3-butadiene	126-99-8	D	3.6	12.0
114	1-Chlorobutane	109-69-3	D	710.0	2400.0

	Chemical Name	CAS Number	Cancer Group	Residential (mg/kg)	Non-residential (mg/kg)
115	* 1-Chloro-1,1-difluoroethane	75-68-3	D	2800.0	2800.0
116	* Chlorodifluoromethane	75-45-6	D	2800.0	2800.0
117	Chloroform	67-66-3	B2	2.5	5.3
118	Chloromethane	74-87-3	C	12.0	26.0
119	4-Chloro-2-methylaniline	95-69-2	B2	7.7	33.0
120	4-Chloro-2-methylaniline hydrochloride	3165-93-3	B2	9.7	41.0
121	beta-Chloronaphthalene	91-58-7	D	5200.0	55000.0
122	o-Chloronitrobenzene	88-73-3	B2	180.0	760.0
123	p-Chloronitrobenzene	100-00-5	B2	250.0	1100.0
124	2-Chlorophenol	95-57-8	D	91.0	370.0
125	2-Chloropropane	75-29-6	D	170.0	580.0
126	Chlorothalonil	1897-45-6	B2	400.0	1700.0
127	* o-Chlorotoluene	95-49-8	D	160.0	550.0
128	Chlorpropham	101-21-3	D	13000.0	140000.0
129	Chlorpyrifos	2921-88-2	D	200.0	2000.0
130	Chlorpyrifos-methyl	5598-13-0	D	650.0	6800.0
131	Chlorsulfuron	64902-72-3	D	3300.0	34000.0
132	Chlorthiophos	602-38-56-4	D	52.0	550.0
133	Chromium, Total (1/6 ratio Cr VI/Cr III)	N/A	D	2100.0	4500.0
134	Chromium III	16065-83-1	D	77000.0	1000000.0
135	Chromium VI	7440-47-3	A	30.0	64.0
136	Chrysene	218-01-9	B2	610.0	2600.0
137	Cobalt	7440-48-4	D	4600.0	97000.0
138	Copper and compounds	7440-50-8	D	2800.0	63000.0
139	Copper cyanide	544-92-3	D	380.0	8500.0
140	Crotonaldehyde	123-73-9	C	0.052	0.11
141	Cumene	98-82-8	D	19.0	62.0
142	Cyanazine	21725-46-2	D	5.3	23.0
143	Cyanide, Free	57-12-5	D	1300.0	14000.0
144	Cyanogen	460-19-5	D	2600.0	27000.0
145	Cyanogen bromide	506-68-3	D	5900.0	61000.0
146	Cyanogen chloride	506-77-4	D	3300.0	34000.0
147	Cyclohexanone	108-94-1	D	330000.0	1000000.0
148	Cyclohexylamine	108-91-8	D	13000.0	140000.0
149	Cyhalothrin/Karate	68085-85-8	D	330.0	3400.0
150	Cypermethrin	52315-07-8	D	650.0	6800.0
151	Cyromazine	66215-27-8	D	490.0	5100.0
D					
152	Dacthal	1861-32-1	D	650.0	6800.0
153	Dalapon	75-99-0	D	2000.0	20000.0
154	Danitol	39515-41-8	D	1600.0	17000.0
155	DDD	72-54-8	B2	19.0	80.0
156	DDE	72-55-9	B2	13.0	56.0
157	DDT	50-29-3	B2	13.0	56.0
158	Decabromodiphenyl ether	1163-19-5	C	650.0	6800.0
159	Demeton	8065-48-3	D	2.6	27.0
160	Diallate	2303-16-4	B2	73.0	310.0
161	Diazinon	333-41-5	E	59.0	610.0
162	Dibenz[ah]anthracene	53-70-3	B2	0.61	2.6
163	Dibenzofuran	132-64-9	D	260.0	2700.0
164	1,4-Dibromobenzene	106-37-6	D	650.0	6800.0
165	Dibromochloromethane	124-48-1	C	53.0	230.0
166	1,2-Dibromo-3-chloropropane	96-12-8	B2	3.2	14.0
167	1,2-Dibromoethane	106-93-4	B2	0.049	0.2
168	Dibutyl phthalate	84-74-2	D	6500.0	68000.0
169	Dicamba	1918-00-9	D	2000.0	20000.0
170	* 1,2-Dichlorobenzene	95-50-1	D	1100.0	3900.0
171	* 1,3-Dichlorobenzene	541-73-1	D	500.0	2000.0
172	1,4-Dichlorobenzene	106-46-7	C	190.0	790.0

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	Chemical Name	CAS Number	Cancer Group	Residential (mg/kg)	Non-residential (mg/kg)
173	3,3-Dichlorobenzidine	91-94-1	B2	9.9	42.0
174	1,4-Dichloro-2-butene	764-41-0	B2	0.074	0.17
175	Dichlorodifluoromethane	75-71-8	D	94.0	310.0
176	1,1-Dichloroethane	75-34-3	C	500.0	1700.0
177	1,2-Dichloroethane (EDC)	107-06-2	B2	2.5	5.5
178	1,1-Dichloroethylene	75-35-4	C	0.36	0.8
179	1,2-Dichloroethylene (cis)	156-59-2	D	31.0	100.0
180	1,2-Dichloroethylene (trans)	156-60-5	D	78.0	270.0
181	1,2-Dichloroethylene (mixture)	540-59-0	D	35.0	120.0
182	2,4-Dichlorophenol	120-83-2	D	200.0	2000.0
183	4-(2,4-Dichlorophenoxy)butyric Acid (2,4-DB)	94-82-6	D	520.0	5500.0
184	2,4-Dichlorophenoxyacetic Acid (2,4-D)	94-75-7	D	650.0	6800.0
185	1,2-Dichloropropane	78-87-5	B2	3.1	6.8
186	1,3-Dichloropropene	542-75-6	B2	2.4	5.5
187	2,3-Dichloropropanol	616-23-9	D	200.0	2000.0
188	Dichlorvos	62-73-7	B2	15.0	66.0
189	Dicofol	115-32-2	C	10.0	43.0
190	Dieldrin	60-57-1	B2	0.28	1.2
191	Diethylene glycol, monobutyl ether	112-34-5	D	370.0	3900.0
192	Diethylene glycol, monoethyl ether	111-90-0	D	130000.0	1000000.0
193	Diethylformamide	617-84-5	D	720.0	7500.0
194	Di(2-ethylhexyl)adipate	103-23-1	C	3700.0	16000.0
195	Diethyl phthalate	84-66-2	D	52000.0	550000.0
196	Diethylstilbestrol	56-53-1	A	0.0001	0.0004
197	Difenzoquat (Avenge)	43222-48-6	D	5200.0	55000.0
198	Diflubenzuron	35367-38-5	D	1300.0	14000.0
199	Diisopropyl methylphosphonate	1445-75-6	D	5200.0	55000.0
200	Dimethipin	55290-64-7	C	1300.0	14000.0
201	Dimethoate	60-51-5	D	13.0	140.0
202	3,3'-Dimethoxybenzidine	119-90-4	B2	320.0	1400.0
203	Dimethylamine	124-40-3	D	0.07	0.24
204	N-N-Dimethylaniline	121-69-7	D	130.0	1400.0
205	2,4-Dimethylaniline	95-68-1	C	5.9	25.0
206	2,4-Dimethylaniline hydrochloride	21436-96-4	C	7.7	33.0
207	3,3'-Dimethylbenzidine	119-93-7	B2	0.48	2.1
208	1,1-Dimethylhydrazine (Hydrazine, dimethyl)	57-14-7	B, C	1.7	7.3
209	1,2-Dimethylhydrazine	540-73-8	B2	0.12	0.52
210	N,N-Dimethylformamide	68-12-2	D	6500.0	68000.0
211	2,4-Dimethylphenol	105-67-9	D	1300.0	14000.0
212	2,6-Dimethylphenol	576-26-1	D	39.0	410.0
213	3,4-Dimethylphenol	95-65-8	D	65.0	680.0
214	Dimethyl phthalate	131-11-3	D	650000.0	1000000.0
215	Dimethyl terephthalate	120-61-6	D	6500.0	68000.0
216	4,6-Dinitro-o-cyclohexyl phenol	131-89-5	D	130.0	1400.0
217	1,3-Dinitrobenzene	99-65-0	D	6.5	68.0
218	1,2-Dinitrobenzene	528-29-0	D	26.0	270.0
219	1,4-Dinitrobenzene	100-25-4	D	26.0	270.0
220	2,4-Dinitrophenol	51-28-5	D	130.0	1400.0
221	Dinitrotoluene mixture	25321-14-6	B2	6.5	28.0
222	2,4-Dinitrotoluene	121-14-2	D	130.0	1400.0
223	2,6-Dinitrotoluene	606-20-2	D	65.0	680.0
224	Dinoseb	88-85-7	D	65.0	680.0
225	di-n-Octyl phthalate	117-84-0	D	1300.0	14000.0
226	1,4-Dioxane	123-91-1	B2	400.0	1700.0
227	Diphenamid	957-51-7	D	2000.0	20000.0
228	Diphenylamine	122-39-4	D	1600.0	17000.0
229	1,2-Diphenylhydrazine	122-66-7	B2	5.6	24.0
230	Diquat	85-00-7	D	140.0	1500.0

	Chemical Name	CAS Number	Cancer Group	Residential (mg/kg)	Non-residential (mg/kg)
231	Direct black 38	1937-37-7	A	0.052	0.22
232	Direct blue 6	2602-46-2	A	0.055	0.24
233	Direct brown 95	16071-86-6	A	0.048	0.21
234	Disulfoton	298-04-4	E	2.6	27.0
235	1,4-Dithiane	505-29-3	D	650.0	6800.0
236	Diuron	330-54-1	D	130.0	1400.0
237	Dodine	2439-10-3	D	260.0	2700.0
	E				
238	Endosulfan	115-29-7	D	390.0	4100.0
239	Endothall	145-73-3	D	1300.0	14000.0
240	Endrin	72-20-8	D	20.0	200.0
241	Epichlorohydrin	106-89-8	B2	7.5	25.0
242	1,2-Epoxybutane	106-88-7	D	370.0	3900.0
243	EPTC (S-Ethyl dipropylthiocarbamate)	759-94-4	D	1600.0	17000.0
244	Ethephon (2-chloroethyl phosphonic acid)	16672-87-0	D	330.0	3400.0
245	Ethion	563-12-2	D	33.0	340.0
246	2-Ethoxyethanol	110-80-5	D	26000.0	270000.0
247	2-Ethoxyethanol acetate	111-15-9	D	20000.0	200000.0
248	* Ethyl acetate	141-78-6	D	18000.0	39000.0
249	Ethyl acrylate	140-88-5	B2	2.1	4.5
250	* Ethylbenzene	100-41-4	D	1500.0	2700.0
251	Ethylene cyanohydrin	109-78-4	D	20000.0	200000.0
252	Ethylene diamine	107-15-3	D	1300.0	14000.0
253	Ethylene glycol	107-21-1	D	130000.0	1000000.0
254	Ethylene glycol, monobutyl ether	111-76-2	D	370.0	3900.0
255	Ethylene oxide	75-21-8	B1	1.3	3.2
256	Ethylene thiourea (ETU)	96-45-7	B2	5.2	55.0
257	* Ethyl chloride	75-00-3	D	1100.0	4200.0
258	* Ethyl ether	60-29-7	D	3800.0	3800.0
259	* Ethyl methacrylate	97-63-2	D	210.0	690.0
260	Ethyl p-nitrophenyl phenylphosphorothioate	2104-64-5	D	0.65	6.8
261	Ethylphthalyl ethyl glycolate	84-72-0	D	200000.0	1000000.0
262	Express	101200-48-0	D	520.0	5500.0
	F				
263	Fenamiphos	22224-92-6	D	16.0	170.0
264	Fluometuron	2164-17-2	D	850.0	8900.0
265	Fluoranthene	206-44-0	D	2600.0	27000.0
266	Fluorene	86-73-7	D	2600.0	27000.0
267	Fluorine (soluble fluoride)	7782-41-4	D	3900.0	41000.0
268	Fluoridone	59756-60-4	D	5200.0	55000.0
269	Flurprimidol	56425-91-3	D	1300.0	14000.0
270	Flutolanil	66332-96-5	D	3900.0	41000.0
271	Fluvalinate	69409-94-5	D	650.0	6800.0
272	Folpet	133-07-3	B2	1300.0	5500.0
273	Fomesafen	72178-02-0	C	23.0	100.0
274	Fonofos	944-22-9	D	130.0	1400.0
275	Formaldehyde	50-00-0	B1	9800.0	100000.0
276	Formic Acid	64-18-6	D	130000.0	1000000.0
277	Fosetyl-al	39148-24-8	C	200000.0	1000000.0
278	Furan	110-00-9	D	2.5	8.5
279	Furazolidone	67-45-8	B2	1.2	5.0
280	Furfural	98-01-1	D	200.0	2000.0
281	Furium	531-82-8	B2	0.089	0.38
282	Furmecyclox	60568-05-0	B2	150.0	640.0
	G				
283	Glufosinate-ammonium	77182-82-2	D	26.0	270.0
284	Glycidaldehyde	765-34-4	B2	26.0	270.0
285	Glyphosate	1071-83-6	D	6500.0	68000.0
	H				

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	Chemical Name	CAS Number	Cancer Group	Residential (mg/kg)	Non-residential (mg/kg)
286	Haloxypop-methyl	69806-40-2	D	3.3	34.0
287	Harmony	79277-27-3	D	850.0	8900.0
288	Heptachlor	76-44-8	B2	0.99	4.2
289	Heptachlor epoxide	1024-57-3	B2	0.49	2.1
290	Hexabromobenzene	87-82-1	D	130.0	1400.0
291	Hexachlorobenzene	118-74-1	B2	2.8	12.0
292	Hexachlorobutadiene	87-68-3	C	13.0	140.0
293	HCH (alpha)	319-84-6	B2	0.71	3.0
294	HCH (beta)	319-85-7	C	2.5	11.0
295	HCH (gamma) Lindane	58-89-9	B2-C	3.4	15.0
296	HCH-technical	608-73-1	B2	2.5	11.0
297	Hexachlorocyclopentadiene	77-47-4	D	450.0	4600.0
298	Hexachlorodibenzo-p-dioxin (HxCDD)	mixture 19408-74-3	B2	0.00072	0.0031
299	Hexachloroethane	67-72-1	C	65.0	680.0
300	Hexachlorophene	70-30-4	D	20.0	200.0
301	Hexahydro-1,3,5-trinitro-1,3,5-triazine	121-82-4	C	40.0	170.0
302	* n-Hexane	110-54-3	D	120.0	400.0
303	Hexazinone	51235-04-2	D	2200.0	22000.0
304	Hydrazine, hydrazine sulfate	302-01-2	B2	1.5	6.4
305	Hydrocarbons (C ₁₀ to C ₃₂)	N/A	N/A	4100.0	18000.0
306	Hydrogen chloride	7647-01-0	D	370.0	3900.0
307	Hydrogen cyanide	74-90-8	D	11.0	35.0
308	p-Hydroquinone	123-31-9	D	2600.0	27000.0
I					
309	Imazalil	35554-44-0	D	850.0	8900.0
310	Imazaquin	81335-37-7	D	16000.0	170000.0
311	Indeno[1,2,3-cd]pyrene	193-39-5	B2	6.1	26.0
312	Iprodione	36734-19-7	D	2600.0	27000.0
313	* Isobutanol	78-83-1	D	11000.0	42000.0
314	Isophorone	78-59-1	C	4700.0	20000.0
315	Isopropalin	33820-53-0	D	980.0	10000.0
316	Isopropyl methyl phosphonic acid	1832-54-8	D	6500.0	68000.0
317	Isoxaben	82558-50-7	C	3300.0	34000.0
K					
318	Kepone	143-50-0	B, C	0.25	1.1
L					
319	Lactofen	77501-63-4	D	130.0	1400.0
320	#Lead	7439-92-1	B2	400.0	2000.0
321	Lead (tetraethyl)	78-00-2	D	0.0065	0.068
322	Linuron	330-55-2	C	130.0	1400.0
323	Lithium	7439-93-2	D	1500.0	34000.0
324	Londax	83055-99-6	D	13000.0	140000.0
M					
325	Malathion	121-75-5	D	1300.0	14000.0
326	Maleic anhydride	108-31-6	D	6500.0	68000.0
327	Maleic hydrazide	123-33-1	D	33000.0	340000.0
328	Malononitrile	109-77-3	D	1.3	14.0
329	Mancozeb	8018-01-7	D	2000.0	20000.0
330	Maneb	12427-38-2	D	330.0	3400.0
331	Manganese and compounds	7439-96-5	D	3200.0	43000.0
332	Mephosfolan	950-10-7	D	5.9	61.0
333	Mepiquat	24307-26-4	D	2000.0	20000.0
334	Mercuric chloride	7487-94-7	C	23.0	510.0
335	Mercury (elemental)	7439-97-6	D	6.7	180.0
336	Mercury (methyl)	22967-92-6	D	6.5	68.0
337	Merphos	150-50-5	D	2.0	20.0
338	Merphos oxide	78-48-8	D	2.0	20.0
339	Metalaxyl	57837-19-1	D	3900.0	41000.0

	Chemical Name	CAS Number	Cancer Group	Residential (mg/kg)	Non-residential (mg/kg)
340	Methacrylonitrile	126-98-7	D	2.0	8.1
341	Methamidophos	10265-92-6	D	3.3	34.0
342	Methanol	67-56-1	D	33000.0	340000.0
343	Methidathion	950-37-8	C	65.0	680.0
344	Methomyl	16752-77-5	D	1600.0	17000.0
345	Methoxychlor	72-43-5	D	330.0	3400.0
346	2-Methoxyethanol	109-86-4	D	65.0	680.0
347	2-Methoxyethanol acetate	110-49-6	D	130.0	1400.0
348	2-Methoxy-5-nitroaniline	99-59-2	C	97.0	410.0
349	Methyl acetate	79-20-9	D	21000.0	88000.0
350	Methyl acrylate	96-33-3	D	69.0	230.0
351	2-Methylaniline (o-toluidine)	95-53-4	B2	19.0	79.0
352	2-Methylaniline hydrochloride	636-21-5	B2	25.0	110.0
353	Methyl chlorocarbonate	79-22-1	D	65000.0	680000.0
354	2-Methyl-4-chlorophenoxyacetic acid	94-74-6	D	33.0	340.0
355	4-(2-Methyl-4-chlorophenoxy) butyric acid (MCPB)	94-81-5	D	650.0	6800.0
356	2-(2-Methyl-4-chlorophenoxy) propionic acid	93-65-2	D	65.0	680.0
357	2-(2-Methyl-1,4-chlorophenoxy) propionic acid (MCPB)	16484-77-8	D	65.0	680.0
358	Methylcyclohexane	108-87-2	D	56000.0	590000.0
359	4,4'-Methylenebisbenzeneamine	101-77-9	D	18.0	76.0
360	4,4'-Methylene bis(2-chloroaniline)	101-14-4	B2	34.0	150.0
361	4,4'-Methylene bis(N,N'-dimethyl)aniline	101-61-1	B2	97.0	410.0
362	Methylene bromide	74-95-3	D	650.0	6800.0
363	Methylene chloride	75-09-2	B2	77.0	180.0
364	Methyl ethyl ketone	78-93-3	D	7100.0	27000.0
365	Methyl hydrazine	60-34-4	B, C	4.0	17.0
366	Methyl isobutyl ketone	108-10-1	D	770.0	2800.0
367	* Methyl methacrylate	80-62-6	D	760.0	2800.0
368	2-Methyl-5-nitroaniline	99-55-8	C	130.0	580.0
369	Methyl parathion	298-00-0	D	16.0	170.0
370	2-Methylphenol	95-48-7	C	3300.0	34000.0
371	3-Methylphenol	108-39-4	C	3300.0	34000.0
372	4-Methylphenol	106-44-5	C	330.0	3400.0
373	Methyl styrene (mixture)	25013-15-4	D	120.0	520.0
374	* Methyl styrene (alpha)	98-83-9	D	890.0	3100.0
375	Methyl tertbutyl ether (MTBE)	1634-04-4	D	320.0	3300.0
376	Metolaclor (Dual)	51218-45-2	D	9800.0	100000.0
377	Metribuzin	21087-64-9	D	1600.0	17000.0
378	Mirex	2385-85-5	B2	2.5	11.0
379	Molinate	2212-67-1	D	130.0	1400.0
380	Molybdenum	7439-98-7	D	380.0	8500.0
381	Monochloramine N	10599-90-3	D	6500.0	68000.0
382	Naled	300-76-5	D	130.0	1400.0
383	Naphthalene	91-20-3	D	2600.0	27000.0
384	Napropamide	15299-99-7	D	6500.0	68000.0
385	Nickel and compounds	7440-02-0	D	1500.0	34000.0
386	Nickel subsulfide	12035-72-2	A	5100.0	11000.0
387	Nitrapyrin	1929-82-4	D	98.0	1000.0
388	Nitrate	14797-55-8	D	100000.0	1000000.0
389	Nitrite	14797-65-0	D	6500.0	68000.0
390	2-Nitroaniline	88-74-4	D	3.9	41.0
391	Nitrobenzene	98-95-3	D	18.0	94.0
392	Nitrofurantoin	67-20-9	D	4600.0	48000.0
393	Nitrofurazone	59-87-0	B2	3.0	13.0
394	Nitroguanidine	556-88-7	D	6500.0	68000.0
395	N-Nitrosodi-n-butylamine	924-16-3	B2	0.22	0.55

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	Chemical Name	CAS Number	Cancer Group	Residential (mg/kg)	Non-residential (mg/kg)
396	N-Nitrosodiethanolamine	1116-54-7	B2	1.6	6.8
397	N-Nitrosodiethylamine	55-18-5	B2	0.03	0.13
398	N-Nitrosodimethylamine	62-75-9	B2	0.087	0.37
399	N-Nitrosodiphenylamine	86-30-6	B2	910.0	3900.0
400	N-Nitroso di-n-propylamine	621-64-7	B2	0.63	2.7
401	N-Nitroso-N-methylethylamine	10595-95-6	B2	0.20	0.87
402	N-Nitrosopyrrolidine	930-55-2	B2	2.1	9.1
403	m-Nitrotoluene	99-08-1	D	650.0	6800.0
404	p-Nitrotoluene	99-99-0	D	650.0	6800.0
405	Norflurazon	27314-13-2	D	2600.0	27000.0
406	NuStar	85509-19-9	D	46.0	480.0
	O				
407	Octabromodiphenyl ether	32536-52-0	D	200.0	2000.0
408	Octahydro-1357-tetranitro-1357-tetrazocine (HMX)	2691-41-0	D	3300.0	34000.0
409	Octamethylpyrophosphoramidate	152-16-9	D	130.0	1400.0
410	Oryzalin	19044-88-3	C	3300.0	34000.0
411	Oxadiazon	19666-30-9	D	330.0	3400.0
412	Oxamyl	23135-22-0	E	1600.0	17000.0
413	Oxyfluorfen	42874-03-3	D	200.0	2000.0
	P				
414	Paclobutrazol	76738-62-0	D	850.0	8900.0
415	Paraquat	4685-14-7	C	290.0	3100.0
416	Parathion	56-38-2	C	390.0	4100.0
417	Pebulate	1114-71-2	D	3300.0	34000.0
418	Pendimethalin	40487-42-1	D	2600.0	27000.0
419	Pentabromo-6-chloro cyclohexane	87-84-3	C	190.0	830.0
420	Pentabromodiphenyl ether	32534-81-9	D	130.0	1400.0
421	Pentachlorobenzene	608-93-5	D	52.0	550.0
422	Pentachloronitrobenzene	82-68-8	C	17.0	73.0
423	Pentachlorophenol	87-86-5	B2	25.0	79.0
424	Permethrin	52645-53-1	D	3300.0	34000.0
425	Phenmedipham	13684-63-4	D	16000.0	170000.0
426	Phenol	108-95-2	D	39000.0	410000.0
427	m-Phenylenediamine	108-45-2	D	390.0	4100.0
428	p-Phenylenediamine	106-50-3	D	12000.0	130000.0
429	Phenylmercuric acetate	62-38-4	D	5.2	55.0
430	2-Phenylphenol	90-43-7	C	2300.0	9800.0
431	Phorate	298-02-2	E	13.0	140.0
432	Phosmet	732-11-6	D	1300.0	14000.0
433	Phosphine	7803-51-2	D	20.0	200.0
434	Phosphorus, white	7723-14-0	D	1.5	34.0
435	Phthalic anhydride	85-44-9	D	130000.0	1000000.0
436	Picloram	1918-02-1	D	4600.0	48000.0
437	Pirimiphos-methyl	23505-41-1	D	650.0	6800.0
438	Polybrominated biphenyls (PBBs)	N/A	B2	0.46	2.1
439	Polychlorinated biphenyls (PCBs)	1336-36-3	B2	2.5	13.0
440	Potassium cyanide	151-50-8	D	3300.0	34000.0
441	Potassium silver cyanide	506-61-6	D	13000.0	140000.0
442	Prochloraz	67747-09-5	C	30.0	130.0
443	Profluralin	26399-36-0	D	390.0	4100.0
444	Prometon	1610-18-0	D	980.0	10000.0
445	Prometryn	7287-19-6	D	260.0	2700.0
446	Pronamide	23950-58-5	C	4900.0	51000.0
447	Propachlor	1918-16-7	D	850.0	8900.0
448	Propanil	709-98-8	D	330.0	3400.0
449	Propargite	2312-35-8	D	1300.0	14000.0
450	Propargyl alcohol	107-19-7	D	130.0	1400.0
451	Propazine	139-40-2	C	1300.0	14000.0

	Chemical Name	CAS Number	Cancer Group	Residential (mg/kg)	Non-residential (mg/kg)
452	Propham	122-42-9	D	1300.0	14000.0
453	Propiconazole	60207-90-1	D	850.0	8900.0
454	Propylene glycol	57-55-6	D	1000000.0	1000000.0
455	Propylene glycol, monoethyl ether	111-35-3	D	46000.0	480000.0
456	Propylene glycol, monomethyl ether	107-98-2	D	46000.0	480000.0
457	Propylene oxide	75-56-9	B2	19.0	79.0
458	Pursuit	81335-77-5	D	16000.0	170000.0
459	Pydrin	51630-58-1	D	1600.0	17000.0
460	Pyrene	129-00-0	D	2000.0	20000.0
461	Pyridine	110-86-1	D	65.0	680.0
Q					
462	Quinalphos	13593-03-8	D	33.0	340.0
463	Quinoline	91-22-5	C	0.37	1.6
R					
464	RDX (Cyclonite)	121-82-4	C	40.0	170.0
465	Resmethrin	10453-86-8	D	2000.0	20000.0
466	Ronnel	299-84-3	D	3300.0	34000.0
467	Rotenone	83-79-4	D	260.0	2700.0
S					
468	Savey	78587-05-0	D	1600.0	17000.0
469	Selenious Acid	7783-00-8	D	330.0	3400.0
470	Selenium	7782-49-2	D	380.0	8500.0
471	Selenourea	630-10-4	D	330.0	3400.0
472	Sethoxydim	74051-80-2	D	5900.0	61000.0
473	Silver and compounds	7440-22-4	D	380.0	8500.0
474	Silver cyanide	506-64-9	D	6500.0	68000.0
475	Simazine	122-34-9	C	37.0	160.0
476	Sodium azide	26628-22-8	D	260.0	2700.0
477	Sodium cyanide	143-33-9	D	2600.0	27000.0
478	Sodium diethyldithiocarbamate	148-18-5	C	16.0	71.0
479	Sodium fluoroacetate	62-74-8	D	1.3	14.0
480	Sodium metavanadate	13718-26-8	D	65.0	680.0
481	Strontium, stable	7440-24-6	D	46000.0	1000000.0
482	Strychnine	57-24-9	D	20.0	200.0
483	* Styrene	100-42-5	C	3300.0	3300.0
484	Sythane	88671-89-0	D	1600.0	17000.0
T					
485	2,3,7,8-TCDD (dioxin)	1746-01-6	B2	0.000038	0.00024
486	Tebuthiuron	34014-18-1	D	4600.0	48000.0
487	Temephos	3383-96-8	D	1300.0	14000.0
488	Terbacil	5902-51-2	E	850.0	8900.0
489	Terbufos	13071-79-9	D	1.6	17.0
490	Terbutryn	886-50-0	D	65.0	680.0
491	1,2,4,5-Tetrachlorobenzene	95-94-3	D	20.0	200.0
492	1,1,1,2-Tetrachloroethane	630-20-6	C	23.0	54.0
493	1,1,2,2-Tetrachloroethane	79-34-5	C	4.4	11.0
494	Tetrachloroethylene (PCE)	127-18-4	B2	53.0	170.0
495	2,3,4,6-Tetrachlorophenol	58-90-2	D	2000.0	20000.0
496	p,a,a,a-Tetrachlorotoluene	5216-25-1	B2	0.22	0.95
497	Tetrachlorovinphos	961-11-5	C	190.0	790.0
498	Tetraethyldithiopyrophosphate	3689-24-5	D	33.0	340.0
499	Thallic oxide	1314-32-5	D	5.4	120.0
500	Thallium acetate	563-68-8	D	6.9	150.0
501	Thallium carbonate	6533-73-9	D	6.1	140.0
502	Thallium chloride	7791-12-0	D	6.1	140.0
503	Thallium nitrate	10102-45-1	D	6.9	150.0
504	Thallium selenite	12039-52-0	D	6.9	150.0
505	Thallium sulfate	7446-18-6	D	6.1	140.0
506	Thiobencarb	28249-77-6	D	650.0	6800.0

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	Chemical Name	CAS Number	Cancer Group	Residential (mg/kg)	Non-residential (mg/kg)
507	2-(Thiocyanomethylthio)- benzothiazole (TCMTB)	3689-24-5	D	2000.0	20000.0
508	Thiofanox	39196-18-4	D	20.0	200.0
509	Thiophanate-methyl	23564-05-8	D	5200.0	55000.0
510	Thiram	137-26-8	D	330.0	3400.0
511	Tin and compounds	7440-31-5	D	46000.0	1000000.0
512	* Toluene	108-88-3	D	790.0	2700.0
513	Toluene-2,4-diamine	95-80-7	B2	1.4	6.0
514	Toluene-2,5-diamine	95-70-5	D	39000.0	410000.0
515	Toluene-2,6-diamine	823-40-5	C	13000.0	140000.0
516	p-Toluidine	106-49-0	C	23.0	100.0
517	Toxaphene	8001-35-2	B2	4.0	17.0
518	Tralomethrin	66841-25-6	D	490.0	5100.0
519	Triallate	2303-17-5	D	850.0	8900.0
520	Triasulfuron	82097-50-5	D	650.0	6800.0
521	1,2,4-Tribromobenzene	615-54-3	D	330.0	3400.0
522	Tributyltin oxide (TBTO)	56-35-9	D	2.0	20.0
523	2,4,6-Trichloroaniline	634-93-5	C	130.0	560.0
524	2,4,6-Trichloroaniline hydrochloride	33663-50-2	C	150.0	660.0
525	* 1,2,4-Trichlorobenzene	120-82-1	D	570.0	4700.0
526	* 1,1,1-Trichloroethane	71-55-6	D	1200.0	4800.0
527	1,1,2-Trichloroethane	79-00-5	C	6.5	15.0
528	Trichloroethylene (TCE)	79-01-6	B2	27.0	70.0
529	Trichlorofluoromethane	75-69-4	D	380.0	1300.0
530	2,4,5-Trichlorophenol	95-95-4	D	6500.0	68000.0
531	2,4,6-Trichlorophenol	88-06-2	B2	400.0	1700.0
532	2,4,5-Trichlorophenoxyacetic acid	93-76-5	D	650.0	6800.0
533	2-(2,4,5-Trichlorophenoxy) propionic acid	93-72-1	D	520.0	5500.0
534	1,1,2-Trichloropropane	598-77-6	D	15.0	50.0
535	1,2,3-Trichloropropane	96-18-4	B2	0.014	0.03
536	1,2,3-Trichloropropene	96-19-5	D	11.0	38.0
537	* 1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	D	10000.0	10000.0
538	Tridiphane	58138-08-2	D	200.0	2000.0
539	Triethylamine	121-44-8	D	23.0	84.0
540	Trifluralin	1582-09-8	C	490.0	2500.0
541	Trimethyl phosphate	512-56-1	B2	120.0	520.0
542	1,3,5-Trinitrobenzene	99-35-4	D	3.3	34.0
543	Trinitrophenylmethylnitramine	479-45-8	D	650.0	6800.0
544	2,4,6-Trinitrotoluene	118-96-7	C	33.0	340.0
	V				
545	Vanadium	7440-62-2	D	540.0	12000.0
546	Vanadium pentoxide	1314-62-1	D	690.0	15000.0
547	Vanadium sulfate	13701-70-7	D	1500.0	34000.0
548	Vernam	1929-77-7	D	65.0	680.0
549	Vinclozolin	50471-44-8	D	1600.0	17000.0
550	Vinyl acetate	108-05-4	D	780.0	2600.0
551	Vinyl bromide	593-60-2	B2	1.9	4.1
552	Vinyl chloride	75-01-4	A	0.016	0.035
	W				
553	Warfarin	81-81-2	D	20.0	200.0
	X				
554	* Xylene (mixed)	1330-20-7	D	2800.0	2800.0
	Z				
555	Zinc	7440-66-6	D	23000.0	510000.0
556	Zinc phosphide	1314-84-7	D	23.0	510.0
557	Zinc cyanide	557-21-1	D	3300.0	34000.0
558	Zineb	12122-67-7	D	3300.0	34000.0

* = 1% free-phase analysis

= Based on IEUBK Model

~ = Based on natural background

N/A = Not Applicable

CARCINOGENICITY CLASSIFICATIONS:

A = Known human carcinogen

B1 = Probable human carcinogen, with limited data indicating human carcinogenicity.

B2 = Probable human carcinogen, with inadequate or no evidence of carcinogenicity in humans. Sufficient evidence for carcinogenicity in laboratory animals.

C = Possible human carcinogen.

D = Not classifiable as to human carcinogenicity.

E = Evidence of noncarcinogenicity in humans.

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency appendix reinstated at the request of the Department; historical note from Supp. 97-3 stating emergency expired removed for clarity. Appendix B adopted permanently effective December 4, 1997, replacing emergency appendix (Supp. 97-4). Former Appendix B repealed; new Appendix B renumbered from Appendix A and amended by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

Appendix C. Repealed

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Interim emergency appendix reinstated at the request of the Department; historical note from Supp. 97-3 stating emergency expired removed for clarity. Appendix C adopted permanently effective December 4, 1997, replacing emergency appendix (Supp. 97-4). Appendix C repealed by final rulemaking at 13 A.A.R. 971, effective May 5, 2007 (Supp. 07-1).

Appendix D. Emergency Expired

Historical Note

Adopted by emergency action effective March 29, 1996, pursuant to A.R.S. § 41-1026 and Laws 1995, Ch. 232, § 5; in effect until permanent rules are adopted and in place no later than August 1, 1997, pursuant to A.R.S. § 49-152 and Laws 1995, Ch. 232, § 5 (Supp. 96-1). Historical note revised to clarify exemptions of emergency adoption (Supp. 97-1). Historical note from Supp. 97-3 stating emergency expired removed for clarity; interim emergency rule reinstated at the request of the Department. Emergency expired effective December 4, 1997 (Supp. 97-4).

ARTICLE 3. PROSPECTIVE PURCHASER AGREEMENT

R18-7-301. Prospective Purchaser Agreement Fee

- A.** An applicant for a prospective purchaser agreement with the Department under A.R.S. § 49-285.01 shall pay to the Department the fee prescribed in this Article. The Department shall not refund a fee once it accepts an application.
- B.** An applicant for a prospective purchaser agreement shall pay a fee for each prospective purchaser agreement application submitted to the Department for review. The fee includes:
1. An initial charge as prescribed in subsection (C);
 2. An hourly charge, if the conditions of subsection (D)(1) apply;
 3. The publication costs for the legal notice as prescribed in subsection (F); and
 4. A charge, as prescribed in subsection (D)(2), if an applicant requests a settlement.
- C.** An applicant shall pay an initial charge of \$2,500 for an application for a prospective purchaser agreement requiring minimal review for property within a site that is listed in the Water Quality Assurance Revolving Fund (WQARF) registry under A.R.S. § 49-287.01. For property that is not on the WQARF registry, an applicant shall pay an initial charge of \$3,600 for an application for a prospective purchaser agreement. The initial charge covers direct and indirect Department costs. An application for a prospective purchaser agreement requiring minimal review is one that requires 34 or fewer hours of review time for a site on the WQARF registry or 49 or fewer hours for a site not on the WQARF registry.
- D.** In addition to the initial charge described in subsection (C), the applicant shall pay the following charges, if applicable:

1. An hourly charge for reviewing a prospective purchaser agreement that requires more than the hours for review covered by the initial charge in subsection (C). The additional charge is \$73 per hour for Department staff time and Assistant Attorney General time.
 2. A charge in the amount of \$2,000, to accompany a request for a settlement that includes immunity from contribution claims for existing contamination, if requested under A.R.S. § 49-285.01. If costs for the settlement exceed \$2,000, the remainder of the costs will be paid for through the terms of the settlement.
- E.** The applicant may agree in writing to pay charges that exceed the initial charge described in subsection (C). Unless the applicant has so agreed, when the Department believes that the costs associated with the prospective purchaser agreement have begun to exceed the initial charge, the Department shall stop work on the prospective purchaser agreement and notify the applicant in writing. The applicant shall notify the Department in writing, within 30 days of the Department's notification under this subsection, whether the applicant wishes the Department to continue work on the application and to incur additional costs. The Department shall terminate the application if the applicant does not provide written confirmation within 30 days that it wishes the Department to continue work on the application.
- F.** The Department shall publish a legal notice announcing an opportunity for public comment on the prospective purchaser agreement. The legal notice shall include:
1. A general description of the contents of the agreement;

2. The location where information regarding the agreement can be obtained;
 3. The name and address of the Department contact where comments may be sent; and
 4. The time and date that the comment period closes.
- G.** The initial charge described in subsection (C) is due when the applicant submits the prospective purchaser agreement application to the Department. The publication cost specified in subsection (B)(3), and any hourly charge described in subsection (D)(1), are due within 30 days of the date the invoice is sent by the Department. Fee charges are payable to the state of Arizona, and shall be paid in full before the Department executes a prospective purchaser agreement.

Historical Note

Adopted effective February 7, 1997; filed with the Office of the Secretary of State January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 12 A.A.R. 345, effective March 11, 2006 (Supp. 06-1).

Editor's Note: The heading for the following Article was amended by exempt rulemaking at 7 A.A.R. 814, effective February 9, 2001 (Supp. 01-1).

Editor's Note: The following Article was originally adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1997, Ch. 296, §§ 3(E) & (G), 10 & 11. Although exempt from certain provisions of the rulemaking process, the Department was required to submit notice of proposed rulemaking with the Secretary of State for publication in the Arizona Administrative Register and conduct a public hearing (Supp. 97-3).

ARTICLE 4. REPEALED

R18-7-401. Repealed

Historical Note

Adopted effective August 5, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1997, Ch. 296, §§ 3(E) & (G), 10 & 11 (Supp. 97-3). Section R18-7-401 repealed; new Section R18-7-401 adopted effective October 21, 1998 (Supp. 98-4). Repealed by final rulemaking at 15 A.A.R. 232, effective March 7, 2009 (Supp. 09-1).

Editor's Note: The rules in the following Article were adopted as interim rules under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 2000, Ch. 225, § 13. Although exempt from certain provisions of the rulemaking process, the Department is required to submit notice of proposed rulemaking with the Secretary of State for publication in the Arizona Administrative Register and conduct a public hearing (Supp. 01-1).

ARTICLE 5. VOLUNTARY REMEDIATION PROGRAM

R18-7-501. Definitions

The following definitions shall apply in this Article, unless the context otherwise requires:

“Applicant” means a person who participates in the Voluntary Remediation Program. Participation in the Voluntary Remediation Program begins when the Department receives an application under A.R.S. § 49-173 and continues until any one of the following occurs:

The Department grants the applicant’s request for a no further action determination.

The applicant provides the Department with notice of the applicant’s intent to withdraw from the program.

The Department terminates the applicant’s participation under A.R.S. § 49-178(B).

“Department” means the Arizona Department of Environmental Quality.

“Voluntary Remediation Program” means the program authorized under A.R.S. Title 49, Chapter 1, Article 5.

Historical Note

New Section adopted as interim rules, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 2000, Ch. 225, § 13, at 7 A.A.R. 814, effective February 9, 2001 (Supp. 01-1).

R18-7-502. Application Fee

- A.** At the time of filing an application to participate in the Voluntary Remediation Program, the applicant shall pay a nonrefundable application fee in the amount of \$2,000.00.
- B.** The application fee shall be in the form of a company check, cashier’s check, certified check, or money order made payable to the Arizona Department of Environmental Quality.
- C.** Except as provided in subsection (D), an application does not meet the requirements in A.R.S. § 49-173 unless accompanied by the application fee. The Department shall not review an application until the application fee is paid in full.
- D.** At the request of an applicant that is a small business as defined under A.R.S. § 41-1001, the Department may review and approve an application upon receipt of a partial payment of the application fee in an amount approved by the Department and an agreement to pay the remainder of the fee in scheduled installments.
- E.** An applicant that withdraws or is terminated from participation in the Voluntary Remediation Program may reapply to the program by submitting an application that meets the requirements of A.R.S. § 49-173, including payment of the application fee.

Historical Note

New Section adopted as interim rules, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 2000, Ch. 225, § 13, at 7 A.A.R. 814, effective February 9, 2001 (Supp. 01-1).

R18-7-503. Deposit

- A.** At the time that an applicant submits a work plan under A.R.S. § 49-175 or a report under A.R.S. § 49-181, the applicant shall submit to the Department an initial deposit of \$4,000.00.
- B.** The deposit shall be in the form of a company check, cashier’s check, certified check, or money order made payable to the Arizona Department of Environmental Quality.
- C.** The Department shall begin review of the applicant’s work plan or the report submitted under A.R.S. § 49-181 upon receipt of the initial deposit.
- D.** Upon receipt of the initial deposit, the Department shall establish a site-specific deposit account identified by a unique account number. The Department shall charge all incurred reimbursable costs attributable to the applicant’s site against the site-specific deposit account.
- E.** If, at any time during the applicant’s participation in the program, the balance in the site-specific deposit account falls below \$1,000.00 and the Department reasonably estimates that the reimbursable costs chargeable to the account will exceed the amount available in the account, the Department shall mail or fax a written request that the applicant submit an additional deposit in an amount not to exceed \$4,000.00. The Department may request any number of additional deposits, in amounts of \$4,000.00 or less, at any time that the conditions of this subsection are met.

- F. If any requested additional deposit is not received within 30 days after the Department mails or faxes the request in subsection (E) and the Department determines that the applicant's site specific account balance is insufficient to support continued program participation, the Department shall mail a written notice of deficiency under A.R.S. § 49-178 and shall notify the applicant that work on the site may be suspended until the additional deposit is received. If the Department does not receive the requested additional deposit within 60 days after the notice of deficiency is mailed or faxed and the applicant does not dispute the Department's determination that the site specific account balance is insufficient to support continued program participation, the Department may terminate the applicant's participation in the program. An applicant whose participation is terminated under this subsection may reapply to the program as provided in R18-7-502(E).

Historical Note

New Section adopted as interim rules, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 2000, Ch. 225, § 13, at 7 A.A.R. 814, effective February 9, 2001 (Supp. 01-1).

R18-7-504. Voluntary Remediation Program Reimbursement

- A. The applicant shall reimburse the Department, at an hourly reimbursement rate established under R18-7-505, for time spent by Voluntary Remediation Program staff on activities specifically related to the applicant's site, including the following:
1. Review of the application submitted under A.R.S. § 49-173, including review of any modifications requested by the Department or the applicant or additional information submitted by the applicant.
 2. Review of the work plan submitted under A.R.S. § 49-175, including review of any modifications requested by the Department under A.R.S. § 49-177 or by the applicant or the Department under A.R.S. § 49-180.
 3. Review of progress reports submitted as part of a work plan under A.R.S. § 49-175 or as requested by the Department under A.R.S. § 49-177 or A.R.S. § 49-180.
 4. Consideration by the Department under A.R.S. § 49-176(D) of written comments submitted in response to a public notice providing an opportunity to comment or a public meeting.
 5. Participation in public hearings required by the Department under A.R.S. § 49-176(D).
 6. Site inspections under A.R.S. § 49-177 and site investigations under A.R.S. § 49-181, including time spent in travel to and from the site.
 7. Review of the report and request for a no further action determination submitted under A.R.S. § 49-181, including review of any modifications requested by the applicant or the Department.
 8. Time spent in reviewing a request submitted by an applicant under A.R.S. § 49-182 for approval of a remedial action under A.R.S. § 49-285.
 9. Time spent in meetings or discussions requested by the applicant or the Department.
- B. The applicant shall reimburse the Department for the site-specific costs of goods and services contracted by the Department including:
1. Reasonable and necessary attorneys' fees billed to the Department by the Attorney General for legal services, including legal fees billed for representation in regard to appeals or dispute resolution under A.R.S. § 49-185.

2. Costs incurred by the Department for work provided under a contract described in A.R.S. § 49-179(D)(1) or A.R.S. § 49-179(D)(2).
3. Reasonable and necessary travel costs incurred in the performance of activities described in subsections (A)(5), (A)(6), or (A)(9) or performed at the request of the applicant.
4. Other reasonable site related expenses documented in writing by the Department.

Historical Note

New Section adopted as interim rules, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 2000, Ch. 225, § 13, at 7 A.A.R. 814, effective February 9, 2001 (Supp. 01-1).

R18-7-505. Hourly Reimbursement Rate

The hourly reimbursement rate is \$110.00 per hour.

Historical Note

New Section adopted as interim rules, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 2000, Ch. 225, § 13, at 7 A.A.R. 814, effective February 9, 2001 (Supp. 01-1).

R18-7-506. Voluntary Remediation Program Accounting

Within a reasonable time after the end of each calendar quarter, the Department shall mail or fax each applicant a statement itemizing reimbursable costs charged against the site-specific deposit account and a summary of account activity during that quarter. The statement shall be in a form consistent with generally accepted accounting principles.

Historical Note

New Section adopted as interim rules, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 2000, Ch. 225, § 13, at 7 A.A.R. 814, effective February 9, 2001 (Supp. 01-1).

R18-7-507. Account Reconciliation

- A. Within a reasonable time after completion of the remediation work at the site, or after termination or withdrawal of the applicant from participation in the program, the Department shall prepare and mail or fax to the applicant a final statement which shall include:
1. An itemization of site-specific reimbursable costs incurred by the Department but not previously reported in a quarterly statement.
 2. The total amount of site-specific reimbursable costs incurred by the Department during the course of the project, including the costs reported in subsection (A)(1).
 3. The total amount submitted as deposits by the applicant and applied by the Department to the applicant's site-specific deposit account during the course of the project, plus the amount paid by the applicant as an application fee.
- B. If the final statement shows that the amounts submitted or paid during the course of the project are less than the Department's reimbursable costs, the applicant shall be responsible for and shall pay, within 30 days after receipt of the final statement, the difference between the costs incurred and the amounts submitted or paid.
- C. If the final statement shows that the amounts submitted or paid during the course of the project are more than the Department's reimbursable costs and the Department's reimbursable costs exceed \$2,000.00, the Department shall return to the applicant, within a reasonable time period, the difference between the amounts submitted or paid and the costs incurred.
- D. If the final statement shows that the amounts submitted or paid during the course of the project are more than the Depart-

ment's reimbursable costs and the Department's reimbursable costs total \$2,000.00 or less, the Department shall retain the applicant's nonrefundable application fee of \$2,000.00 and shall return to the applicant the amount of any deposits submitted.

- E. The Department may withhold any program approval or no further action determination until the applicant has paid any amount due and payable under the final statement.

Historical Note

New Section adopted as interim rules, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 2000, Ch. 225, § 13, at 7 A.A.R. 814, effective February 9, 2001 (Supp. 01-1).

ARTICLE 6. DECLARATION OF ENVIRONMENTAL USE RESTRICTION FEE

Article 6, consisting of R18-7-601 through R18-7-606, made by exempt rulemaking at 10 A.A.R. 573, effective February 20, 2004 (Supp. 04-1).

R18-7-601. Definitions

The following definitions shall apply in this Article, unless the context otherwise requires:

“APP mine sites” means mining facilities which are subject to the aquifer protection permit provisions of Arizona Revised Statutes Title 49, Chapter 2, Article 3.

“Department” means the Arizona Department of Environmental Quality.

“DEUR” means declaration of environmental use restriction, as described in A.R.S. §§ 49-152 and 49-158. It is an institutional control and a restrictive covenant that runs with and burdens the property, binds the owner and the owner's heirs, successors and assigns, and inures to the benefit of the Department and the state.

“Fee” means the fee authorized by A.R.S. §§ 49-152(K) and 49-158(G).

“Engineering control” has the meaning in A.R.S. § 49-151.

“Institutional control” has the meaning in A.R.S. § 49-151.

“Modification” means modification of a DEUR that continues to address the same spill or release, and the same contaminants, as in the original DEUR. No other changes are considered a modification of a DEUR, but would be the subject of a separate DEUR.

“One-time activities” includes reviewing and/or approving legal descriptions, control areas, contaminants, institutional or engineering controls, and draft DEUR documents.

“Ongoing activities” includes reviewing written reports, conducting site inspections, or otherwise verifying maintenance of institutional or engineering controls.

“Underground storage tanks” means those underground storage tanks defined and regulated under A.R.S. Title 49, Chapter 6, Article 1.

“WQARF sites” means sites that are listed on the site registry specified in A.R.S. § 49-287.01 and are the subject of remedial action pursuant to A.R.S. Title 49, Chapter 2, Article 5. A property that is within a registry site boundary, but does not involve a contaminant of concern identified for that registry site and is not the subject of remedial action pursuant to the above Chapter 2, is not a WQARF site for the purpose of this Section.

Historical Note

New Section made by exempt rulemaking at 10 A.A.R.

573, effective February 20, 2004 (Supp. 04-1).

R18-7-602. Applicability

The provisions of this Article apply to properties where the owner has elected to use an institutional control and/or an engineering control to reduce the potential for exposure to contaminants on the property, or to leave contamination on the property that exceeds the applicable residential soil standard for the property. The owner of such property shall record, in each county where the property is located, a restrictive covenant labeled “declaration of environmental use restriction,” that contains the information required by A.R.S. §§ 49-152 or 49-158, as approved by the Department. The owner shall submit the information on a form provided by the Department.

Historical Note

New Section made by exempt rulemaking at 10 A.A.R. 573, effective February 20, 2004 (Supp. 04-1).

R18-7-603. Fee

Except as provided in R18-7-605, before recording the DEUR or DEUR modification, property owners shall pay to the Department a fee as provided in R18-7-604 by company, cashier, or certified check, or money order, or other method approved by the Department.

Historical Note

New Section made by exempt rulemaking at 10 A.A.R. 573, effective February 20, 2004 (Supp. 04-1).

R18-7-604. Fee Calculation

- A. Property owners who use only an institutional control shall pay to the Department a fee that is the sum of the following:
1. \$825, representing Department costs to perform one-time activities;
 2. An amount representing the costs of ongoing activities performed by the Department that is one of the following:
 - a. For properties contaminated only by a petroleum release from one or more underground storage tanks: \$110 multiplied by the number of years the Department projects the property will require ongoing activities, not to exceed 30 years; or
 - b. For all other properties: \$220 multiplied by the number of years the Department projects the property will require ongoing activities, not to exceed 30 years;
 3. \$770, representing Department costs to review and render a decision on a request to release a DEUR, and to record the release, pursuant to A.R.S. §§ 49-152(D) or 49-158(L);
 4. \$1,985 per site, representing the property owner's pro-rata share of Department costs to oversee and coordinate its DEUR-related activities; plus
 5. \$550 per site, representing the property owner's pro-rata share of Department costs to administer the repository under A.R.S. § 49-152(E).
- B. Property owners who use an engineering control without groundwater monitoring shall pay a fee to the Department that is the sum of the following:
1. \$1,595, representing Department costs to perform one-time activities;
 2. \$660, representing Department costs of annual ongoing activities, multiplied by the number of years the Department projects the property will require ongoing activities, not to exceed 30 years;
 3. \$1,320, representing Department costs to review and render a decision on a request to release a DEUR, and to record the release, pursuant to A.R.S. §§ 49-152(D) or 49-158(L);

4. \$1,985 per site, representing the property owner's pro-rata share of Department costs to oversee and coordinate its DEUR-related activities; plus
 5. \$550 per site, representing the property owner's pro-rata share of Department costs to administer the repository under A.R.S. § 49-152(E).
- C.** Property owners who use an engineering control with ground-water monitoring, and owners of WQARF sites and APP mine sites, shall pay to the Department a fee that is the sum of the following:
1. \$3,740, representing Department costs for performing one-time activities;
 2. A component of the fee to be determined on a case-by-case basis, at \$55 per hour, based on both:
 - a. The number of hours per year that the Department projects will be required for ongoing activities performed by the Department for the property, not to exceed 70 hours per year; and
 - b. The number of years that the Department projects the property will require ongoing activities, not to exceed 30 years;
 3. \$1,870, representing Department costs to review and render a decision on a request to release a DEUR, and to record the release, pursuant to A.R.S. §§ 49-152(D) or 49-158(L);
 4. \$1,985 per site, representing the property owner's pro-rata share of Department costs to oversee and coordinate its DEUR-related activities; plus
 5. \$550 per site, representing the property owner's pro-rata share of Department costs to administer the repository under A.R.S. § 49-152(E).

Historical Note

New Section made by exempt rulemaking at 10 A.A.R. 573, effective February 20, 2004 (Supp. 04-1).

R18-7-605. Postponement of the Release Portion of the DEUR Fee

Property owners may elect to postpone payment of the portion of the fee to release the DEUR, described in R18-7-604(A)(3), R18-7-604(B)(3), or R18-7-604(C)(3), on the condition that payment of the reasonable and necessary costs of releasing the DEUR is made with the request to the Department to release the DEUR from the property. Property owners electing to use this option acknowledge that the future amount of the release portion of the DEUR fee will be the amount established by this Article at the time the request for the release of the DEUR is filed with the Department, which may be greater than the amount described in R18-7-604(A)(3), R18-7-604(B)(3), or R18-7-604(C)(3) at the time the DEUR is recorded.

Historical Note

New Section made by exempt rulemaking at 10 A.A.R. 573, effective February 20, 2004 (Supp. 04-1).

R18-7-606. DEUR Modification Fee

A property owner who wishes to request a modification to an existing DEUR pursuant to A.R.S. §§ 49-152(I)(2), 49-152(J)(2), 49-158(E), or 49-158(F) shall pay to the Department a fee, representing Department costs to review and render a decision on the request to modify the DEUR. The fee shall accompany the proposed modification, and shall be in the form of company, cashier, or certified check, or money order, or other method approved by the Department. The fee shall be the amount specified in R18-7-604(A)(3), R18-7-604(B)(3), or R18-7-604(C)(3), as appropriate for the category of site as described in R18-7-604(A), R18-7-604(B), or R18-7-604(C).

Historical Note

New Section made by exempt rulemaking at 10 A.A.R. 573, effective February 20, 2004 (Supp. 04-1).

General and Specific Authorizing Statutes for 18 A.A.C. 7

General: A.R.S. §§ 41-1003 and 49-104(B)(4).

Specific: A.R.S. §§ 49-104(B)(16), 49-152(A)(1), (K), and (M), 49-158(G) and (J), 49-179, 49-186, 49-285.01(H), and Laws 2000, Chapter 225, Section 13.

41-1003. Required rule making

Each agency shall make rules of practice setting forth the nature and requirements of all formal procedures available to the public.

49-104. Powers and duties of the department and director

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.
2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.
3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.
4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.
5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.
6. Promote and coordinate the management of air resources to ensure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.
7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.
8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.
9. Ensure the preservation and enhancement of natural beauty and man-made scenic qualities.
10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.

11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. Beginning in 2014, the department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.
12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.
13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.
14. Assist the department of health services in recruiting and training state, local and district health department personnel.
15. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
16. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.
17. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that addresses the same subject matter. This paragraph shall not be construed to adversely affect standards adopted by an Indian tribe under federal law.
18. Provide administrative and staff support for the oil and gas conservation commission.

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.
2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.
3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.
4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.
5. Contract with other agencies, including laboratories, in furthering any department program.

6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.
7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.
8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.
9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.
10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.
11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:
 - (a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.
 - (b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the standards and rules has been demonstrated by approval of the design documents by the department.
12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at such places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection H, paragraph 10.
13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:

(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.

(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.

(c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.

(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules shall:

(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.

(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules. The department may require payment of a fee as a condition of licensure. After July 20, 2011, the department shall establish by rule a fee as a condition of licensure, including a maximum fee. As part of the rulemaking process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. After September 30, 2013, the department shall not increase that fee by rule without specific statutory authority for the increase. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.

15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and article 2 of this chapter.

16. Approve remediation levels pursuant to article 4 of this chapter.

17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this title for the department to adequately perform its duties. All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on:

(a) The direct and indirect costs of the department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary

operational expenses directly related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.

(b) The availability of other funds for the duties performed.

(c) The impact of the fees on the parties subject to the fees.

(d) The fees charged for similar duties performed by the department, other agencies and the private sector.

18. Appoint a person with a background in oil and gas conservation to act on behalf of the oil and gas conservation commission and administer and enforce the applicable provisions of title 27, chapter 4 relating to the oil and gas conservation commission.

C. The department may:

1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203, except that state agencies are exempt from paying the fees. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

2. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.

D. The director may:

1. If the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.

2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

49-152. Soil remediation standards; restrictions on property use

A. Notwithstanding any other remediation levels established under this title, the director shall approve remediation levels calculated in accordance with this subsection and shall accomplish the following for remediation of contaminated soil to protect public health and the environment in accordance with the applicable provisions of this title and section 33-434.01:

1. Establish predetermined risk based standards by rule. At a minimum, separate standards shall be established for residential and nonresidential exposure assumptions. Until risk based remediation standards are formally established by rule, the director shall establish interim standards adopting:

(a) The Arizona health based guidance levels developed by the department of health services to include a health based standard for total petroleum hydrocarbons as the standards for residential uses.

(b) The guidance levels in subdivision (a) of this paragraph modified to reflect the United States environmental protection agency published assumptions for exposures that are not residential as the standards for nonresidential uses. The initial adoption of these interim standards shall be effective by December 15, 1995 and shall be deemed emergency rules pursuant to section 41-1026.

2. Issue guidance on methods for calculating case-by-case, site specific risk based remediation levels in accordance with risk assessment methodologies that are accepted in the scientific community and shall not preclude the use of newly developed risk assessment methodologies that are accepted in the scientific community.

B. The owner of a property may elect to remediate the property to meet a site specific residential or nonresidential risk based remediation standard or a predetermined residential or nonresidential risk based remediation standard. The property is suitable for unrestricted use if it has been remediated without the use of engineering or institutional controls to meet either of the following:

1. The predetermined residential risk based remediation standard.

2. A site specific risk based hazard index equal to or less than one or a risk of carcinogenic health effects that is less than or equal to the range of risk levels set forth in 40 Code of Federal Regulations section 300.430(e)(2)(i)(A)(2), based on residential exposure.

C. If the owner has elected to use an engineering or institutional control to meet the standards prescribed in subsection B of this section, or if the owner has elected to leave contamination on the property that exceeds the applicable residential standard for the property, the owner shall record in each county where the property is located an institutional control that consists of a restrictive covenant that is labeled "declaration of environmental use restriction" pertaining to the area of the property necessary to protect the public health and the environment. A person who is conducting a remedial action, remediation, corrective action or response action that requires an institutional or engineering control and who is not the owner of the property shall obtain written consent from the owner before implementing the institutional control or constructing the engineering control. On implementation of the institutional or engineering control, the owner shall record a declaration of environmental use restriction in each county where the property is located. If the institutional control or engineering control will affect right-of-way that is owned, maintained or controlled by a public entity for public benefit, the person shall also obtain the public entity's written consent before implementing the institutional control or constructing the engineering control. The declaration of environmental use restriction shall limit by legal description:

1. The area of the property where the institutional control or engineering control shall be maintained.

2. The area of the property to be restricted to nonresidential use, because contamination remains on the property above the standards prescribed in subsection B, paragraph 1 or 2 of this section.

D. At the written request of the owner of property that is subject to a declaration of environmental use restriction, the director shall determine whether release or modification of the declaration of environmental use restriction is appropriate. If a release has been requested, the director shall make this determination within sixty days after the date of the property owner's request. If the director determines that release of the declaration of environmental use restriction is appropriate, the director shall record in each county where the property is located a notice releasing the declaration of environmental use restriction. The declaration of environmental use restriction is perpetual unless released pursuant to this section. The director shall determine that release of a declaration of environmental use restriction is appropriate if the property has been remediated, without the use of institutional controls or engineering controls, to either:

1. Meet predetermined risk based remedial standards for residential exposure assumptions.

2. Present a risk based hazard index equal to or less than one from noncancer health effects and a risk estimate of carcinogenic health effects equal to or less than the range of risk levels set forth in 40 Code of Federal Regulations section 300.430(e)(2)(i)(A)(2).

E. The department shall establish a repository in the department listing sites remediated under programs administered by the department under this title. The repository shall include the name and address of the owner of the property, when the remediation was conducted, the legal description and street address of the property, the applicability of section 33-434.01, the type of financial assurance mechanism that is being used, if applicable, and a description of the purpose of the declaration of environmental use restriction.

F. When recorded, an owner's declaration of environmental use restriction under subsection B of this section is a covenant that runs with and burdens the property, binds the owner and the owner's heirs, successors and assigns and inures to the benefit of the department and the state. If notice of the declaration of environmental use restriction that includes a specific description of the area of the property that is subject to the declaration of environmental use restriction is contained in the repository maintained by the department pursuant to subsection E of this section, a declaration of environmental use restriction may not be extinguished, limited or impaired through any of the following:

1. Issuance of a tax deed.

2. Foreclosure of a tax lien.

3. Foreclosure of any mortgage, deed of trust or other encumbrance or lien on the property.

4. Adverse possession.

5. Exercise of eminent domain.

6. Application of the doctrine of abandonment, the doctrine of waiver or any other common law doctrine.

G. Each party to a declaration of environmental use restriction shall incorporate the terms of the declaration of environmental use restriction into any lease, license or other agreement that is signed by the party and that grants a right with respect to the property that is subject to the declaration of environmental use restriction. The incorporation may be in full or by reference.

H. A declaration of environmental use restriction is sufficient if it contains all of the following information:

1. A legal description and the address of the area of the property that is subject to the declaration.
2. The date that remediation was completed and a map of the area of the property that is subject to the declaration.
3. A description of the environmental contaminants that were the subject of the remediation, remedial action, corrective action or response action.
4. A statement that more detailed information is available at the department, including the address at which that information will be maintained.
5. A notarized signature of a department official indicating approval of the declaration of environmental use restriction.
6. The notarized signature of the owner.

I. If institutional controls are used in addition to a declaration of environmental use restriction to satisfy the requirements of this section, the declaration of environmental use restriction, in addition to the information required by subsection H of this section, shall include all of the following:

1. A statement documenting any requirements for maintenance of the institutional control, including a description of the institutional control and the reason it must remain in place to protect public health and the environment.
2. A statement indicating that if any person desires to cancel or modify the institutional control in the future, the person must obtain prior written approval from the department pursuant to this section.
3. A statement acknowledging the department's right of access to the property at all reasonable times to verify that institutional controls are being maintained.

J. If engineering controls are used to satisfy the requirements of this section, the declaration of environmental use restriction, in addition to the information required by subsection H of this section, shall include all of the following:

1. A statement of all requirements for maintenance of the engineering control including a description of the control, the date it was constructed and the reason it must remain in place to protect public health and the environment.
2. A statement that if any person desires to change the engineering controls in the future that person shall obtain prior written approval from the department.
3. A statement acknowledging the department's right of access to the property at all reasonable times to verify that engineering controls are being maintained.
4. A brief description of the engineering control plan and financial assurance mechanism prescribed by section 49-152.01, if applicable.

K. When the declaration of environmental use restriction is recorded or modified, an owner electing to use institutional or engineering controls to satisfy the requirements of this section shall pay the department a fee established by rule. If the control is an institutional control, the owner shall submit to the department a written report once each calendar year regarding the status of the institutional control. If the control is an engineering control, the owner shall maintain the engineering control on the property to ensure that it continues to protect public health and the environment and shall inspect each engineering control at least once each calendar year. Within thirty days after each inspection, the owner shall submit to the department a written report that:

1. Describes the condition of the engineering control.
2. States the nature and cost of all restoration made to the engineering control during the calendar year.
3. Includes current photographs of the engineering control.
4. Describes the status of the financial assurance mechanism prescribed by section 49-152.01, if applicable, and a certification that the financial assurance mechanism is being maintained.

L. The department shall provide a copy of the declaration of environmental use restriction to the local jurisdiction with zoning and development plan approval for the property. The receipt of this copy does not create any new obligation or confer additional powers on the local jurisdiction. A declaration of environmental use restriction does not authorize a use of property that is otherwise prohibited by zoning ordinances or other ordinances or laws. A declaration of environmental use restriction may include activity limitations and use restrictions that would otherwise be permitted by zoning ordinances or other ordinances or laws.

M. The department shall adopt rules as necessary to implement this section. These rules may be combined with any rules necessary to implement section 49-158.

N. The department may enter on the property at all reasonable times to assess the condition of each engineering control. When the department enters on property to assess the condition of an engineering control, the department shall:

1. Provide twenty-four hours' advance notice of the entry to the property owner, if practicable.
2. Allow the owner or an authorized representative of the owner to accompany the department representative.
3. Present photographic identification on entry of the property.
4. Provide the owner or an authorized representative of the owner with notice of the right to have a duplicate sample or split of any sample taken during the inspection if the duplicate or split of any sample would not prohibit an analysis from being conducted or render an analysis inconclusive.

O. Nothing in this section shall preclude the department from initiating an action under other provisions of state or federal law.

49-158. Restrictions on property use: enforcement of engineering and institutional controls

A. Notwithstanding any other provisions of this title, if a remedial action, remediation or corrective action performed pursuant to this title or a response action performed pursuant to CERCLA as defined in section 49-201 includes an institutional control or an engineering control and the remedial action, remediation, corrective action or response action is not subject to section 49-152, the owner of the property on which the institutional control or engineering control is located, on implementation of the institutional control or on construction of the engineering control, shall record in each county where the property is located a restrictive covenant that is labeled "declaration of environmental use restriction". A person who is conducting a remedial action, remediation, corrective action or response action that requires an institutional or engineering control and who is not the owner of the property shall obtain written consent from the owner before implementing the institutional control or constructing the engineering control. On implementation of the institutional control or construction of the engineering control, the owner shall record a declaration of environmental use restriction in each county where the property is located. If the institutional control or engineering control will affect right-of-way that is owned, maintained or controlled by a public entity for public benefit, the person shall also obtain the public entity's written consent before implementing the institutional control or constructing the engineering control. The declaration of environmental use restriction shall limit by legal description the area of the property where the institutional control or engineering control shall be maintained.

B. When recorded, an owner's declaration of environmental use restriction under subsection A of this section is a covenant that runs with and burdens the property, binds the owner and the owner's heirs, successors and assigns and inures to the benefit of the department and the state. If notice of the declaration of environmental use restriction that includes a specific description of the area of the property that is subject to the declaration of environmental use restriction is contained in the repository maintained by the department pursuant to section 49-152, subsection E, a declaration of environmental use restriction may not be extinguished, limited or impaired through any of the following:

1. Issuance of a tax deed.
2. Foreclosure of a tax lien.
3. Foreclosure of any mortgage, deed of trust or other encumbrance or lien on the property.
4. Adverse possession.
5. Exercise of eminent domain.
6. Application of the doctrine of abandonment, the doctrine of waiver or any other common law doctrine.

C. Each party to a declaration of environmental use restriction shall incorporate the terms of the declaration of environmental use restriction into any lease, license or other agreement that is signed by the party and that grants a right with respect to the property that is subject to the declaration of environmental use restriction. The incorporation may be in full or by reference.

D. A declaration of environmental use restriction is sufficient if it contains all of the following information:

1. A legal description and the address of the area of the property that is subject to the declaration.
2. The date that remediation, remedial action, corrective action or response action was completed and a map of the area of the property that is subject to the declaration.
3. A description of the environmental contaminants that were the subject of the remediation, remedial action, corrective action or response action.
4. A statement that more detailed information is available at the department including the address at which that information will be maintained.
5. A notarized signature of a department official indicating approval of the declaration of environmental use restriction.
6. The notarized signature of the owner or owners of the property.

E. If institutional controls are used in addition to the declaration of environmental use restriction, the declaration of environmental use restriction, in addition to the information required by subsection D of this section, shall include the same elements required pursuant to section 49-152, subsection I.

F. If engineering controls are used, the declaration of environmental use restriction, in addition to the information required by subsection D of this section, shall include the same elements required pursuant to section 49-152, subsections F through J and section 49-152.01.

G. When a declaration of environmental use restriction is recorded or modified, an owner shall pay to the department a fee established by rule. The owner shall follow the same requirements for institutional controls and engineering controls pursuant to section 49-152, subsection K and section 49-152.01.

H. The department shall provide a copy of the declaration of environmental use restriction to the local jurisdiction with zoning and development plan approval for the property. A declaration of environmental use restriction does not authorize a use of property that is otherwise prohibited by zoning ordinances or other ordinances or laws. A declaration of environmental use restriction may include activity limitations and use restrictions that would otherwise be permitted by zoning ordinances or other ordinances or laws. The receipt of this copy does not create any new obligation or confer additional powers on the local jurisdiction.

I. The department may enter the property pursuant to section 49-152. The department may also enforce this section as prescribed by section 49-152.02.

J. The department shall adopt rules as necessary to implement this section.

K. When the department enters on property pursuant to this section to verify that engineering controls are being maintained, the department shall meet the same requirements pursuant to section 49-152, subsection N.

L. At the written request of the owner of property that is subject to a declaration of environmental use restriction recorded pursuant to subsection A of this section, the director shall determine whether release or modification of the declaration of environmental use restriction is appropriate. If a release has been requested, the director shall make this determination within sixty days after the date of the property owner's request. If the director determines that release of a declaration of environmental use restriction is appropriate, the director shall record in each county where the property is located a notice releasing the declaration of environmental use restriction. Release by the director under this subsection is appropriate if maintenance of the institutional control or engineering control is no longer necessary to protect public health and the environment.

M. Nothing in this section shall preclude the department from initiating an action under other provisions of state or federal law.

49-179. Application fees; reimbursement of costs of review

A. Each application submitted under section 49-173 shall be accompanied by a nonrefundable fee to be established by rule.

B. An applicant shall reimburse the department for the reasonable and necessary costs of actions taken by the department pursuant to this section and sections 49-173 through 49-178, 49-180, 49-181, 49-182 and 49-185.

C. Reimbursable costs include time spent by the department's employees and the costs of goods and services contracted by the department to carry out the activities described in subsection B of this section. Time spent by the department's employees shall be reimbursed at a rate to be established by rule based upon the estimated direct and indirect costs to the

department of conducting these activities. The department shall provide documentation to the applicant to support its claims for reimbursement consistent with generally accepted accounting principles. The department may require an applicant to pay an advance deposit to be applied against the department's reimbursable costs following the department's approval of an application under section 49-174. If an approved application is terminated or withdrawn pursuant to section 49-178, the applicant shall reimburse the department for its costs incurred prior to the termination or withdrawal.

D. The department may contract with an outside consultant to perform any technical review required to review a work plan submitted pursuant to section 49-175 or a report submitted pursuant to section 49-181 or to oversee work performed pursuant to a work plan approved pursuant to section 49-177 as follows:

1. The department may contract any work for which costs are reimbursable pursuant to subsection B of this section if the contract rate is less than or equal to the rate charged for time spent by the department's employees.
2. The department may contract any work upon the request of an applicant to establish deadlines for a review of a work plan or a task under an approved work plan if the applicant agrees to reimburse the department for the charges of the outside consultant.

49-186. Rules; program termination; no licensing

A. The department shall adopt rules as necessary to implement section 49-179. The adoption of rules under this section is not a prerequisite for implementation of this article.

B. The program established by this article ends on July 1, 2020 pursuant to section 41-3102.

C. Title 41, chapter 6, article 7.1 and section 41-1009 do not apply to this article.

49-285.01. Prospective purchaser agreements; assignment; notice; fees; rules

A. The department may provide, pursuant to section 49-292, to a prospective purchaser of a facility a written release and a covenant not to sue and may also agree to seek an order of the court granting approval of a settlement that includes immunity from contribution claims for any potential liability for existing contamination under this article or CERCLA if all of the following conditions are met:

1. The facility is within a site identified on the registry maintained by the department pursuant to section 49-287.01 or the department has been provided sufficient information to reasonably identify the extent of the contamination at the facility.
2. The person is not currently liable for an existing or threatened release of a hazardous substance at the facility.

3. The proposed redevelopment or reuse of the facility will not contribute to or exacerbate existing known contamination or unreasonably interfere with remedial measures necessary at the facility or cause the contamination to present a substantial health risk to the public.

4. The agreement will provide a substantial public benefit that may include any of the following:

(a) An agreement by the prospective purchaser to provide substantial funding or other resources to perform or facilitate remedial measures at the facility pursuant to this chapter.

(b) An agreement by the prospective purchaser to perform substantial remedial measures at the facility pursuant to this chapter.

(c) Productive reuse of a vacant or abandoned industrial or commercial facility.

(d) Development of a facility by a governmental entity or nonprofit organization to address an important public purpose.

(e) Creation of conservation or recreation areas.

5. The department consults with local planning and zoning authorities with jurisdiction over the facility and considers reasonably anticipated future land uses at the facility and surrounding properties.

B. If the prospective purchaser of a facility is affiliated with any other person who is a party responsible for the release or threatened release of a hazardous substance under this chapter, through any familial relationship or any corporate or contractual relationship other than a contract to protect a security interest, the director may refuse to provide a written release or covenant not to sue or may refuse to seek an order of the court granting immunity from contribution claims under this section.

C. An agreement between the department and a prospective purchaser shall include provisions deemed necessary by the department and may include:

1. A representation by the prospective purchaser that the purchaser did not cause or contribute to the contamination or otherwise cause or contribute to a release or threatened release of a hazardous substance at the property before the purchaser acquired title.

2. If the prospective purchaser does not undertake remedial action, a representation that the purchaser will not exacerbate or contribute to the existing contamination.

3. An agreement that any activity that the prospective purchaser may conduct or direct on the contaminated property will not unreasonably interfere with any ongoing remedial actions that are being performed by a responsible party or the department and that the purchaser will cooperate with those activities.

4. An agreement to undertake those measures that constitute a public benefit as prescribed by subsection A, paragraph 4 of this section.

5. If remedial measures are to be performed under the agreement, an agreement to perform those measures in compliance with the applicable statutes and rules, including sections 49-151 and 49-152, and if pursuant to a consent judgment, under the department's supervision.

6. Unless the contamination was caused by this state, a waiver by the person of any claim or cause of action against this state that arises from contamination at the facility that exists as of the date of acquisition of ownership or operation of the facility.

7. A grant of an easement to the department and its authorized representatives for purposes of ensuring compliance with the agreement or for remedial measures authorized pursuant to this article in connection with contamination at the facility as of the date of acquisition of ownership or operation of the facility.

8. A reservation of rights as to any person who is not a party to the agreement.

9. The legal description of the property.

10. In any case in which the state conducts remedial actions and there are unrecovered response costs at a property for which the prospective purchaser is not liable, the state as a condition of the agreement may impose a lien upon that property for the unrecovered costs. The priority of the lien is as of the date the lien is recorded in the county where the property is located. The lien becomes due on the sale, assignment or transfer of the property by the prospective purchaser unless the new purchaser, assignee or transferor accepts and assumes the lien as a personal obligation with the department's prior written agreement.

D. Subject to satisfactory performance of the obligations under the agreement, the prospective purchaser is not liable to this state under this article for any release of a hazardous substance at the facility that exists on the date of acquisition of ownership or operation of the facility. The person shall bear the burden of proving that any hazardous substance existed on the facility as a result of releases of the hazardous substance before the date of acquisition of ownership or operation of the facility. This release from liability may be voided by the director if the person fails to perform any of the provisions of the prospective purchaser agreement.

E. The purchaser shall provide written notice to the department of any sale, assignment or other transfer of the property at least fifteen business days before the date of the transfer.

F. An agreement pursuant to this section is assignable if the assignee qualifies pursuant to subsections A and B of this section for a prospective purchaser agreement under this section and notice is given to the department as prescribed by subsection E of this section. On assignment, the assignee assumes the obligations and the benefits of the agreement. Unless the assignor has breached the agreement, the assignor retains the benefits of the agreement.

G. The department shall provide notice of a prospective purchaser agreement by publication in a newspaper of general circulation in the county in which the property is located at least fifteen business days before the execution of a prospective purchaser agreement. The notice shall include a general description of the contents of the agreement. Any interested person may comment on the proposed agreement in writing to the director.

H. The department may charge a reasonable fee for the preparation and execution of a prospective purchaser agreement. The director may adopt rules to implement this section.

Laws 2000, Chapter 225, Section 13.

Sec. 13. Interim rules; expedited process

A. Notwithstanding title 41, chapter 6, article 3, Arizona Revised Statutes, the director of the department of environmental quality shall adopt the rules required by section 49-152, subsection H, Arizona Revised Statutes, as amended by this act, and section 49-158, subsection G and section 49-179, subsections A and C, Arizona Revised Statutes, as added by this act, as interim rules by submitting the text of the rules to the office of the secretary of state for publication in the Arizona administrative register, and the secretary of state shall publish the rules. The director shall provide for reasonable notice and at least one public hearing on the proposed interim rules. The rules become effective no earlier than the thirtieth day after the last public hearing.

B. Within ninety days after the director of the department of environmental quality files the interim rules with the secretary of state, the director shall file notice of docket opening for the permanent rule making. The notice of proposed rule making for the permanent rules shall be filed with the secretary of state within thirty days after the filing of the notice of docket opening. The rules published pursuant to subsection A of this section expire and are automatically repealed on the date that the permanent rules become effective.

DEPARTMENT OF ENVIRONMENTAL QUALITY (F-17-0706)

Title 18, Chapter 1, Article 1, Definitions; Article 2, Administrative Appeals; Article 3, Public Participation in Rulemaking; Article 4, Public Notice and General Public Hearings; Article 5, Licensing Time-Frames



**GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT**

MEETING DATE: July 6, 2017

AGENDA ITEM: E-7

TO: Members of the Governor's Regulatory Review Council

FROM: Nicholas Young, Legal Intern

DATE : June 20, 2017

SUBJECT: DEPARTMENT OF ENVIRONMENTAL QUALITY (F-17-0706)
Title 18, Chapter 1, Article 1, Definitions; Article 2, Administrative Appeals;
Article 3, Public Participation in Rulemaking; Article 4, Public Notice and
General Public Hearings; Article 5, Licensing Time-Frames

Purpose of the Agency and Number of Rules in the Report

The Department of Environmental Quality (Department) has been established "to consolidate and focus responsibility for environmental management and administration of water quality, air quality, solid waste and hazardous waste regulation with the goal of increasing effectiveness, efficiency and public acceptance of environmental regulation." Laws 2009, Ch. 23, § 3. Five articles and 30 rules are under review in this five-year-review report. Articles 1, 3, and 4 were adopted in 1988 and have not been amended since. Rules in Article 2 were adopted in 1999. Rules in Article 5 were either adopted or amended in 1999 or 2007. The tables in Article 5, Part II were adopted in 1999 [or 2007 for Table 15] and either amended or repealed in 2003 or 2007, or have not been amended since being adopted.

Proposed Action

The Department has allowed Sections 201, 202, 203, 204, 206, and 207 to expire. The Department indicates that the expired rules were duplicative of statute and did not add any specific value to the Department. The Department is also proposing to file a notice of Final Rulemaking with the Council by June of 2021, to make the following changes:

- R18-1-101: A.R.S. § 41-1092 needs to be added to the list of statutes that contain definitions which are applicable to 18 A.A.C 1. The definition of hearing officer should be deleted from definitions in R18-1-101, as DEQ no longer appoints hearing officers.
- R18-1-306: The statutory reference should be changed from A.R.S. § 41-1054 to A.R.S. § 41-1056(A)(2).

- R18-1-501: The definition needs to be updated because it references A.R.S. § 41-1078(A), which no longer exists.

Substantive or Procedural Concerns

None.

Analysis of the agency’s report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. Has the agency certified that it is in compliance with A.R.S. § 41-1091?

Yes. The Department has certified its compliance with A.R.S. § 41-1091.

2. Has the agency analyzed the rules’ effectiveness in achieving their objectives?

Yes. The Department indicates that the rules are effective with the following exceptions:

- R18-1-306: The statutory reference should be changed from A.R.S. § 41-1054 to A.R.S. § 41-1056(A)(2).
- R18-1-501: “19. Licensing timeframe” references A.R.S. § 41-1078(A); the statute no longer exists and therefore the definition will need to be updated, for accuracy.

3. Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?

No. The Department has not received any written criticisms of the rules during the last five years.

4. Has the agency analyzed whether the rules are authorized by statute?

Yes. The Department cites to general authority under A.R.S. § 49-104(B)(4), “The Department shall [a]dopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.” The Department also cites to general authority under A.R.S. §§ 41-1003 and 49-114. Additionally, the Department cites to specific authority for each rule.

5. Has the agency analyzed the rules’ consistency with other rules and statutes?

Yes. The Department indicates that the rules are consistent with other rules and statutes with the following exceptions:

- R18-1-101: A.R.S. § 41-1092 needs to be added to the list of statutes that contain definitions which are applicable to 18 A.A.C. 1. The definition of hearing officer should be deleted from definitions in R18-1-101 as DEQ no longer appoints hearing officers.

- R18-1-306: The statutory reference should be changed from A.R.S. § 41-1054 to A.R.S. § 41-1056(A)(2).

6. Has the agency analyzed the current enforcement status of the rules?

Yes. The Department indicates that the rules are enforced as written.

7. Has the agency analyzed whether the rules are clear, concise, and understandable?

Yes. The Department indicates that the rules are clear, concise, and understandable.

8. Has the agency analyzed whether:

a. The rules are more stringent than corresponding federal law?

Yes. The Department indicates that the rules are not more stringent than any corresponding federal laws.

b. There is statutory authority to exceed the requirements of federal law?

Not applicable.

9. For rules adopted after July 29, 2010, has the agency analyzed whether:

a. The rules require issuance of a regulatory permit, license or agency authorization?

The rules were adopted prior to July 29, 2010 and do not require issuance of a permit, license or agency authorization.

b. It is in compliance with the general permit requirements of A.R.S. § 41-1037 or explained why it believes an exception applies?

Not applicable.

10. Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?

Yes. The Department indicates that they did not file a Notice of Final Rulemaking with the Council in December, 2015, identified in the previous five-year-review report due to prioritization of needs, and the Department does not feel that the changes would meet the requirements of an exception to the current rule moratorium. The majority of the previous report's suggested changes are being proposed in the current five-year-review report with some additional suggested revisions. R18-1-201, R18-1-202, R18-1-203, and R18-1-207 are set to expire. The following were proposed as needed changes in the previous five-year-review report:

- R18-1-101: Update statutes listed as containing definitions applicable to 18 A.A.C. 1 and delete “hearing officer” since the Department no longer appoints hearing officers.
- R18-1-201: Clarify the bodies governed by 18 A.A.C. 1, Article 2.
- R18-1-202: Clarify the notice service details, including that failure to serve A.R.S. § 41-1092.03 (A) notice does not prevent a party from requesting a hearing on an appealable agency action or contested case within prescribed time limits.
- R18-1-203: Delete informal settlement conference notice provisions as redundant of A.R.S. § 41-1092.03 (A); move the time limit in R18-1-203 (B) to R18-1-202 to conform with the existing structure for notices of appeal.
- R18-1-207: Clarify that requests for review or rehearing are from the Director’s final decision.
- R18-1-306: Change the statutory reference from A.R.S. § 41-1054 to A.R.S. § 41-1056 (A)(2).

Conclusion

The report meets the requirements of A.R.S. § 41-1056 and R1-6-301. This analyst recommends the report be approved.



**GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M**

MEETING DATE: July 6, 2017

AGENDA ITEM: E-7

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : June 20, 2017

SUBJECT: DEPARTMENT OF ENVIRONMENTAL QUALITY (F-17-0706)
Title 18, Chapter 1, Article 1, Definitions; Article 2, Administrative Appeals;
Article 3, Public Participation in Rulemaking; Article 4, Public Notice and
General Public Hearings; Article 5, Licensing Time-Frames

I have reviewed the five-year-review report's economic, small business, and consumer impact comparison for compliance with ARS § 41-1056 and make the following comments.

1. Economic Impact Comparison

The economic, small business, and consumer impact statement (EIS) from the most recent Department rulemaking completed in 2007 was not available. The rules address basic administrative procedures utilized by the Department. These administrative procedures provide guidance for appeals, requirements for public input, and time-frames for sundry Department licenses. Key stakeholders are the Department, the public, and a plethora of Arizona businesses that impact environmental quality. The Department concludes that the economic impact has generally been as predicted in the prior EIS for the rules in the Articles cited above.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

The Department concludes that the rules impose the least burden and costs to persons regulated by the rules as they are written. The Department does not intend to amend these rules.

3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?

No analysis was submitted to the Department by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states.

4. Conclusion

Staff finds that the report complies with A.R.S. § 41-1056 and recommends approval.



Douglas A. Ducey
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY



Misael Cabrera
Director

April 25, 2017

Ms. Nicole A. Ong, Chair
Governor's Regulatory Review Council
100 N. 15th Avenue, Suite 402
Phoenix, AZ 85007

Re: Five Year Rule Review Report, Title 18, Chapter 1

Dear Ms. Ong:

The Arizona Department of Environmental Quality has reviewed Title 18, Chapter 1 pursuant to A.R.S. § 41-1056 and the Governor's Regulatory Review Council's five year review schedule. ADEQ is electing not to review the following rules in Article 2 (Administrative Appeals) and is allowing them to expire on April 28, 2017 under A.R.S § 41-1056(J);

- R18-1-201(Applicability)
- R18-1-202 (Notice of Appeal)
- R18-1-203 (Contested Case Procedures)
- R18-1-204 (Record of Administrative Appeal)
- R18-1-206 (Adjudicative Proceedings Before the Department)
- R18-1-207 (Requests for Rehearing of Review)

I certify that this agency is in compliance with A.R.S. § 41-1091.

You may contact Anakaren Lemus with questions on the report at (602) 771-2212 or email at al4@azdeq.gov.

Sincerely,

Misael Cabrera
Director

Enclosures

Five Year Review Report for Title 18 A.A.C. Chapter 1

ARTICLE 1. DEFINITIONS

R18-1-101. Definitions.

ANALYSIS OF THE RULES

R18-1-101. Definitions.

1. Authorization of the rule by existing statutes

a. The current general statute that authorizes the making of the rule is Arizona Revised Statutes (A.R.S.) § 41-1003 and A.R.S. § 49-104(B)(4). The implementing statutes are A.R.S. §§ 41-1092 through 41-1092.12.

b. Attachment A --A.R.S. §§ 49-104(B)(4), and 41-1001 through 41-1092.12.

2. Objective of the rule:

The purpose of the definitions is to explain the terms that 1) are necessary to help members of the general public read and understand Chapter 1, 2) have a meaning outside the normal, common meaning of the term, 3) are acronyms or shortened forms used in Chapter 1, and 4) are actually used in Chapter 1.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively defines the terms that are used.

4. Analysis of consistency with state and federal statutes and rules:

This section is consistent with applicable state and federal statutes and rules. The definitions are consistent with A.R.S. §§ 41-1001 through 41-1092.11, except that two amendments are needed to incorporate the Uniform Administrative Hearing Procedures in Title 41, Chapter 6, Article 10 which applies to appeals of agency decisions under A.R.S.

Five Year Review Report for Title 18 A.A.C. Chapter 1

§ 49-114. First, A.R.S. § 41-1092 needs to be added to the list of statutes that contain definitions which are applicable to 18 A.A.C. 1. Second, the definition of hearing officer should be deleted from definitions in R18-1-101 since the Arizona Department of Environmental Quality (ADEQ) no longer appoints hearing officers. Formal hearings challenging ADEQ actions are now resolved in a hearing before the OAH under A.R.S. § 49-114.

5. Status of the enforcement of the rule:

Not applicable. Definitions have not been an issue in any compliance or enforcement actions taken by ADEQ.

6. Analysis of clarity, conciseness, and understandability:

In general, the definitions are clear, concise, and understandable to their target audience. Defined terms are in alphabetical order and they are formatted properly, i.e., defined terms are in quotations followed by the verb “means.”

7. Written criticisms of rule received during the last five years:

None.

8. Current Economic, small business, and consumer impact on the rules as compared to EIS at last rule adoption:

This section defines terms and does not impose compliance and reporting requirements on applicants; therefore, there is no economic impact, in and of itself.

9. Analysis Submitted to the Agency by Another Person that Compares the Rule’s Impact on this State’s Business Competitiveness to the Impact on Businesses in Other States:

No such analysis has been submitted to ADEQ.

10. Completed Course of Action Indicated in Previous Five-Year Review Report:

Five Year Review Report for Title 18 A.A.C. Chapter 1

A rule moratorium remains in effect and ADEQ does not feel the changes would meet the requirements of an exception, therefore ADEQ did not move forward with a rulemaking and did not file a Notice of Final Rulemaking with GRRRC in December, 2015 to update this section.

11. Determination That the Rule Imposes the Least Burden and Costs to Persons regulated by the Rule, Including Paperwork and Other Compliance Costs Necessary to Achieve the Underlying Regulatory Objective:

The rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

12. Determination That the Rule is Not More Stringent Than a Corresponding Federal Law

None of the definitions are more stringent than federal law.

13. For Rules Adopted After July 29, 2010 That Require The Issuance of A Regulatory Permit, License, or Agency Authorization, Whether the Rule Complies with §41-1037:

Not applicable.

14. Proposed Course of Action:

Due to competing priorities, no risk to mission operations, and extensive stakeholder outreach necessary for this rulemaking, ADEQ has lowered the priority of this rulemaking. If an exception is approved, ADEQ will file a notice of Final Rulemaking with GRRRC by June 2021 that updates this section.

ARTICLE 2. ADMINISTRATIVE APPEALS

R18-1-205. Notice of Intent to Rely on License Application Components as Submitted.

R18-1-208. Repealed [by final rulemaking at 5 AAR 2854; effective July 30, 1999 (Supp 99-3)]

R18-1-209. Repealed [by final rulemaking at 5 AAR 2854; effective July 30, 1999 (Supp 99-3)]

R18-1-210. Repealed [by final rulemaking at 5 AAR 2854; effective July 30, 1999 (Supp 99-3)]

R18-1-211. Repealed [by final rulemaking at 5 AAR 2854; effective July 30, 1999 (Supp 99-3)]

R18-1-212. Repealed [by final rulemaking at 5 AAR 2854; effective July 30, 1999 (Supp 99-3)]

R18-1-214. Reserved

R18-1-215. Repealed [by final rulemaking at 5 AAR 2854; effective July 30, 1999 (Supp 99-3)]

R18-1-216. Repealed [by final rulemaking at 5 AAR 2854; effective July 30, 1999 (Supp 99-3)]

R18-1-218. Repealed [by final rulemaking at 5 AAR 2854; effective July 30, 1999 (Supp 99-3)]

R18-1-219. Repealed [by final rulemaking at 5 AAR 2854; effective July 30, 1999 (Supp 99-3)]

ANALYSIS OF THE RULES

1. Authorization of the rule by existing statutes
 - a. The current general statute that authorizes the making of the rule is A.R.S. § 41-1003, A.R.S. § 49-104(B)(4), and A.R.S. § 49-114. The implementing statutes are A.R.S. §§ 41-1092 through 41-1092.12.
 - b. Attachment A -- A.R.S. §§ 49-104(B)(4) and 41-1074 through 41-1076, and §§ 41-1092 through 41-1092.12.

5. Status of enforcement of the rule

Five Year Review Report for Title 18 A.A.C. Chapter 1

The rules are being enforced adequately.

7. Written criticisms of rule received during the last five years

None.

8. Current Economic, small business, and consumer impact on the rules as compared to EIS at last rule adoption:

This rule provides appeal procedures and does not impose compliance and reporting requirements on applicants. The overall impact is expected to be minimal with any probable costs outweighed by the benefits of clearly articulated procedures to appeal an agency decision. Economic costs could be generated during the time an applicant spends preparing for an informal settlement conference or an administrative appeal, however these costs are expected to be less than the reapplying if the appeal process were not available to an applicant.

9. Analysis Submitted to the Agency by Another Person that Compares the Rule's Impact on this State's Business Competitiveness to the Impact on Businesses in Other States:

No such analysis has been submitted to ADEQ.

11. Determination that the Rule Imposes the Least Burden and Costs to Persons regulated by the Rule, Including Paperwork and Other Compliance Costs Necessary to Achieve the Underlying Regulatory Objective:

The rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

12. Determination That the Rule is Not More Stringent Than a Corresponding Federal Law

None of the sections are more stringent than federal law.

13. For Rules Adopted After July 29, 2010 That Require The Issuance of A Regulatory Permit, License, or Agency Authorization, Whether the Rule Complies with §41-1037:
Not applicable.

R18-1-205. Notice of Intent to Rely on License Application Components as Submitted

1. Authorization of the rule by existing statutes

The specific statutes that authorize the making of the rule are A.R.S. § 41-1003, A.R.S. § 49-104(B)(4), and A.R.S. § 49-114.

2. Objective of the rule

This Section describes both the content and the effect of using the notice of intent to rely on the application components as submitted under licensing time-frames. It gives applicants a means to respond to Department requests without resorting to the appeals process.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively describes both the content and the effect of using the notice of intent to rely on the license application components as submitted under licensing time frames laws pursuant to A.R.S. §§ 41-1072 through 41-1079.

4. Analysis of consistency with state and federal statutes and rules

There are no federal statutes or regulations that pertain to state permitting processes.

These rules are consistent with State statutes and rules.

6. Analysis of clarity, conciseness and understandability

The rule is clear, concise and understandable.

10. Completed Course of Action Indicated in Previous Five-Year Review Report:

Retain the current rule

14. Proposed course of action

No revisions are planned. Retain the rule

ARTICLE 3. PUBLIC PARTICIPATION IN RULEMAKING

R18-1-301. Agency Record.

R18-1-302. Petition for Rule Adoption, Amendment or Repeal.

R18-1-303. Written Comments During Rulemaking.

R18-1-304. Oral Proceedings.

R18-1-305. Expired [under ARS §41-1056(E) at 8 AAR 5018 effective August 31, 2002 (Supp 02-4)]

R18-1-306. Written Criticism of Rule.

ANALYSIS OF THE RULES

INFORMATION THAT IS IDENTICAL THROUGHOUT ARTICLE 3

1. Authorization of the rule by existing statutes
 - a. The current general statute that authorizes the making of the rules is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statutes that authorize the making of the rules are A.R.S. § 41-1023, A.R.S. § 41-1033, and A.R.S. § 41-1056.
 - b. Attachment A -- A.R.S. §§ 49-104(B)(4) and 41-1074 through 41-1076, and §§ 41-1021 through 41-1036 and § 41-1056.
4. Analysis of consistency with state and federal statutes and rules

Five Year Review Report for Title 18 A.A.C. Chapter 1

The rules in this article are consistent with and complement the provisions of A.R.S. §§ 41-1021 through 41-1036 and 41-1056, except that the internal statutory reference to A.R.S. § 41-1054 in R18-1-306 should be changed from A.R.S. § 41-1054 to § 41-1056(A)(2). The rules in this article are not inconsistent with other rules. Federal statutes and rules do not relate to the rules in this article.

5. Status of enforcement of the rule

The procedures in these rules are enforced for public participation in rulemakings.

7. Written criticisms of rule received during the last five years

None.

8. Current Economic, small business, and consumer impact on the rules as compared to EIS at last rule adoption:

This rule provides procedures for public participation in rulemakings and does not impose compliance and reporting requirements on the general public. The overall impact is expected to be minimal with any probable costs outweighed by the benefits of clearly articulated procedures for the public to participate in agency rule makings.

9. Analysis Submitted to the Agency by Another Person that Compares the Rule's Impact on this State's Business Competitiveness to the Impact on Businesses in Other States:

No such analysis has been submitted to ADEQ.

10. Completed Course of Action Indicated in Previous Five-Year Review Report:

Retain the current rules.

11. Determination that the Rule Imposes the Least Burden and Costs to Persons regulated by the Rule, Including Paperwork and Other Compliance Costs Necessary to Achieve the Underlying Regulatory Objective:

Five Year Review Report for Title 18 A.A.C. Chapter 1

The rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective

12. Determination That the Rule is Not More Stringent Than a Corresponding Federal Law

None of the sections are more stringent than federal law.

13. For Rules Adopted After July 29, 2010 That Require The Issuance of A Regulatory Permit, License, or Agency Authorization, Whether the Rule Complies with §41-1037:

Not applicable.

SECTION BY SECTION ANALYSIS OF ARTICLE 3

R18-1-301. Agency Record.

1. Authorization of the rule by existing statutes

The specific statute that authorizes the making of the rule is A.R.S. § 41-1003.

2. Objective of the rule

The purpose of the rule is to describe where and when the public can review agency records.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively describes where and when the public can review agency records.

6. Analysis of clarity, conciseness and understandability

The section is clear, concise and understandable.

14. Proposed course of action

No revisions are planned. Retain the rule

R18-1-302. Petition for Rule Adoption, Amendment or Repeal.

1. Authorization of the rule by existing statutes

The specific statute that authorizes the making of the rule is A.R.S. § 41-1023.

2. Objective of the rule

This Section provides procedures for petitioning the Department to repeal, amend, or adopt a rule. The rule is designed to promote public participation and also complies with the statutory requirements of A.R.S. § 41-1033

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively describes procedures for petitioning the Department to repeal, amend, or adopt a rule.

6. Analysis of clarity, conciseness and understandability

The rules are clear, concise and understandable.

14. Proposed course of action

No revisions are planned. Retain the rule.

R18-1-303. Written Comments During Rulemaking.

1. Authorization of the rule by existing statutes

The specific statute that authorizes the making of the rule is A.R.S. § 41-1023.

2. Objective of the rule

The purpose of the rule is to describe when written comments are deemed submitted and the effect of timely submissions. The rule imposes requirements designed to provide the public with a means to comment on the record which must be considered by the Department in the rulemaking process

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively describes when written comments are deemed submitted and the effect of timely submissions.

6. Analysis of clarity, conciseness and understandability

The rules are clear, concise and understandable.

14. Proposed course of action

No revisions are planned. Retain the rule

R18-1-304. Oral Proceedings.

1. Authorization of the rule by existing statutes

The specific statute that authorizes the making of the rule is A.R.S. § 41-1023.

2. Objective of the rule

This Section provides procedures for oral proceedings and is designed to promote public participation.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively describes procedures for oral proceedings.

6. Analysis of clarity, conciseness and understandability

The rules are clear, concise and understandable.

14. Proposed course of action

No revisions are planned. Retain the rule.

R18-1-305. Expired

R18-1-306. Written Criticism of Rule.

1. Authorization of the rule by existing statutes

The specific statute that authorizes the making of the rule is A.R.S. § 41-1023.

2. Objective of the rule

This Section provides procedures for submitting written criticisms on a rule.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively describes procedures for submitting written criticisms on a rule. The internal statutory reference should be changed from A.R.S. § 41-1054 to § 41-1056(A)(2).

6. Analysis of clarity, conciseness and understandability

The rules are clear, concise and understandable. As discussed under item 3 the rule will be amended.

10. Completed Course of Action Indicated in Previous Five-Year Review Report:

A rule moratorium remains in effect and ADEQ does not feel the changes would meet the requirements of an exception, therefore ADEQ did not move forward with a rulemaking and did not file a Notice of Final Rulemaking with GRRC in December, 2015 to update this section.

14. Proposed course of action

Due to competing priorities, no risk to mission operations, and extensive stakeholder outreach anticipated if ADEQ opens Chapter 1 for amendments, ADEQ has lowered the priority of this rulemaking. If an exception is approved, ADEQ will file a notice of Final Rulemaking with GRRC by June 2021 that updates this section.

ARTICLE 4. PUBLIC NOTICE AND GENERAL PUBLIC HEARINGS

R18-1-401. Notice.

R18-1-402. General Public Hearing Procedures.

ANALYSIS OF THE RULES

INFORMATION THAT IS IDENTICAL THROUGHOUT ARTICLE 4

1. Authorization of the rule by existing statutes

- a. The current general statute that authorizes the making of the rules is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4).
- b. Attachment A -- A.R.S. §§ 49-104(B)(4) and 41-1074 through 41-1076, and §§ 41-1021 through 41-1036.

4. Analysis of consistency with state and federal statutes and rules

The rules in this article are consistent with and complement the provisions of A.R.S. §§ 41-1021 through 41-1036. The rules in this article are not inconsistent with other rules. Federal statutes and rules do not relate to the rules in this article.

5. Status of enforcement of the rule

The Department enforces these rules whenever it conducts a general public hearing, for example, a hearing on a proposed rulemaking to solicit public comments.

6. Analysis of clarity, conciseness and understandability

The rules are clear, concise and understandable.

7. Written criticisms of rule received during the last five years

Five Year Review Report for Title 18 A.A.C. Chapter 1

None.

8. Current Economic, small business, and consumer impact on the rules as compared to EIS at last rule adoption:

This rule provides public notice and public hearing requirements when such is not prescribed by rule or statute. Economic costs would be generated during the time spent coordinating and responding to notices and participating in hearings. However, the overall impact is expected to be minimal with any probable costs outweighed by the benefits of clearly articulated procedures in all cases for public notices and public hearings.

9. Analysis Submitted to the Agency by Another Person that Compares the Rule's Impact on this State's Business Competitiveness to the Impact on Businesses in Other States:

No such analysis has been submitted to ADEQ.

10. Completed Course of Action Indicated in Previous Five-Year Review Report:

Retain the current rules.

11. Determination that the Rule Imposes the Least Burden and Costs to Persons regulated by the Rule, Including Paperwork and Other Compliance Costs Necessary to Achieve the Underlying Regulatory Objective:

The rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective

12. Determination That the Rule is Not More Stringent Than a Corresponding Federal Law

None of the sections are more stringent than federal law.

Five Year Review Report for Title 18 A.A.C. Chapter 1

13. For Rules Adopted After July 29, 2010 That Require The Issuance of A Regulatory Permit, License, or Agency Authorization, Whether the Rule Complies with §41-1037:
Not applicable.
14. Proposed course of action
No revisions are planned.

SECTION BY SECTION ANALYSIS OF ARTICLE 4

R18-1-401. Notice.

1. Authorization of the rule by existing statutes
The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4).
2. Objective of the rule
The purpose of the rule is to describe public notice requirements. The rule imposes public notice requirements designed to inform the public of events that are of public interest plus provide means by which the public can participate in these events. The rule is designed to promote public participation.
3. Analysis of effectiveness of the rule in achieving the objectives:
The rule effectively describes public notice requirements.

R18-1-402. General Public Hearing Procedures.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4).

2. Objective of the rule

This Section provides procedures for general public hearings where the Department does not include specific public hearing procedures but a hearing is required. The rule is designed to promote public participation.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively describes procedures for general public hearings.

ARTICLE 5. LICENSING TIME-FRAMES

PART I – RULE SECTIONS

R18-1-501. Definitions

R18-1-502. Applicability; Effective Date

R18-1-503. Administrative Completeness Review Time-frame Operation; Administrative Completeness

R18-1-504. Substantive Review Time-frame Operation; Requests for Additional Information

R18-1-505. Overall Time-frame Operation

R18-1-506. Time-frame Extension Operation

R18-1-507. Ending of Time-frames; Licensing Decisions; Withdrawal; Notice of Licensing Time-frames; Nonapplicability

R18-1-508. Licensing Time-frames Pre-application Agreements

R18-1-509. Licensing Time-frames Supplemental Request Agreements

R18-1-510. Licensing Time-frames Extension Agreements

R18-1-511. Licensing Time-frames Changed Application Agreements

R18-1-512. Reserved

R18-1-513. Repealed [by final rulemaking at 13 AAR 1854, effective June 30, 2007 (Supp 07-2)]

R18-1-514. Reserved

R18-1-515. Reserved

R18-1-516. Reassignment of License Category

R18-1-517. Application Withdrawal

R18-1-518. Emergencies

R18-1-519. Public Hearings; Public Meetings; Public Notice Periods

R18-1-520. Notice of Intent to Rely on the Application Components As Submitted

R18-1-521. Notice of Intent to Rely on the License Category

R18-1-522. Notice of Change of Applicant's Agent for Receiving Licensing Time-frames

Notices

R18-1-523. Refunds, Fee Excusals, and Penalties

R18-1-524. Site Inspections

R18-1-525. Licensing Time-frames; Application Components

ANALYSIS OF THE RULES

INFORMATION THAT IS IDENTICAL THROUGHOUT ARTICLE 5, PART I

1. Authorization of the rule by existing statutes

Five Year Review Report for Title 18 A.A.C. Chapter 1

- a. The current general statute that authorizes the making of the rules is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rules is A.R.S. §§ 41-1072 through 41-1077.
 - b. Attachment A -- A.R.S. §§ 49-104(B)(4) and 41-1076.
4. Analysis of consistency with state and federal statutes and rules
There are no federal statutes or regulations that pertain to licensing time-frames. These rules are consistent with State statutes and rules.
 5. Status of enforcement of the rule
The rules are being enforced adequately.
 6. Analysis of clarity, conciseness and understandability
The rules are clear, concise and understandable.
 7. Written criticisms of rule received during the last five years
None.
 8. Current Economic, small business, and consumer impact on the rules as compared to EIS at last rule adoption:
This rule does not create new licenses but adds time-frames to existing licenses.
Economic costs could be generated during the time an applicant applies for a license and the time it is granted.
 9. Analysis Submitted to the Agency by Another Person that Compares the Rule's Impact on this State's Business Competitiveness to the Impact on Businesses in Other States:
No such analysis has been submitted to ADEQ.
 10. Completed Course of Action Indicated in Previous Five-Year Review Report:
Retain the current rules.

Five Year Review Report for Title 18 A.A.C. Chapter 1

11. Determination that the Rule Imposes the Least Burden and Costs to Persons regulated by the Rule, Including Paperwork and Other Compliance Costs Necessary to Achieve the Underlying Regulatory Objective:

The rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective

12. Determination That the Rule is Not More Stringent Than a Corresponding Federal Law

There is no corresponding federal law therefore none of the sections are more stringent. None of the sections are more stringent than federal law.

13. For Rules Adopted After July 29, 2010 That Require The Issuance of A Regulatory Permit, License, or Agency Authorization, Whether the Rule Complies with §41-1037:

Not applicable.

14. Proposed course of action

No revisions are planned.

SECTION BY SECTION ANALYSIS OF ARTICLE 5

R18-1-501. Definitions

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. § 41-1072.

2. Objective of the rule

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The purpose of the rule is to define the terms that 1) are necessary to help members of the general public read and understand Article 5, 2) have a meaning outside the normal, common meaning of the term, 3) are acronyms and shortened forms used in Article 5, and 4) are actually used in Article 5.

3. Analysis of effectiveness of the rule in achieving the objectives:

“19. Licensing timeframe”, references 41-1078(A); 41-1078 no longer exists and therefore the definition will need to be updated, for accuracy.

14. Proposed Course of Action:

Due to competing priorities, no risk to mission operations, and extensive stakeholder outreach anticipated if ADEQ opens Chapter 1 for amendments, ADEQ has lowered the priority of this rulemaking. If an exception is approved, ADEQ will file a notice of Final Rulemaking with GRRC by June 2021 that updates this section.

R18-1-502. Applicability; Effective Date

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. § 41-1073.

2. Objective of the rule

This section prescribes the applicability of the rule and describes what licenses are subject to time frames. The rule assists prospective applicants with determining if the sections apply to their matter

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively describes the applicability of the sections within this Article and what licenses are subject to time frames.

R18-1-503. Administrative Completeness Review Time-frame Operation; Administrative

Completeness

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. § 41-1074.

2. Objective of the rule

This section describes administrative completeness review time-frame operation so licensees have some idea of length of time for review.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively prescribes the administrative completeness review time-frame operation.

R18-1-504. Substantive Review Time-frame Operation; Requests for Additional

Information

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. § 41-1075.

2. Objective of the rule

This section describes the substantive review time-frame operation so licensees have some idea of length of time for review.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively prescribes the substantive review time-frame operation and requests for additional information.

R18-1-505. Overall Time-frame Operation

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. § 41-1076.

2. Objective of the rule

This section describes the cumulative operation of multiple components for the overall time frame operation so licensees have some idea of the length of time for review.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively prescribes the overall time-frame operation.

R18-1-506. Time-frame Extension Operation.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. § 41-1076.

2. Objective of the rule

This section prescribes the starting, suspending, and ending of the time-frame extension. Subsection (A) identifies the starting of the time-frame and clarifies that the time-frame must 1st be created by a R18-1-510 time-frame extension agreement. Subsection (B) identifies the ending of the time-frame. Subsections (C) and (D) clarify that the time-frame responds to R18-1-504 comprehensive requests and R18-1-509 supplemental request agreements. Subsection (E) identifies one other section that may also control the running of this time-frame.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively prescribes the starting, suspending, and ending of the time-frame extension.

R18-1-507. Ending of Time-frames; Licensing Decisions; Withdrawal; Notice of Licensing

Time-frames ; Nonapplicability

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. §§ 41-1075 through 41-1076.

2. Objective of the rule

This section prescribes the actions that may end a time-frame and the process for denying a license. Subsections (A), (E), and (F) identify actions that will terminate a time-frame. Subsections (B) through (D) identify the situations in which ADEQ may deny a license.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively prescribes the ending of a time-frame and the process of license denial.

R18-1-508. Licensing Time-frames Pre-application Agreements.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rules is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. §§ 41-1073.

2. Objective of the rule

This Section prescribes the terms of pre-application agreements that may be offered by the Department for the benefit of applicants. None of these agreements are required. This Section represents the compromise in balancing between establishing fixed times established under the licensing time frame (LTF) laws leading to sanctions and the increased work and flexibility needed by the Department to respond to an applicant's desire not to submit all components complete at one time and at the beginning of the process.

3. Analysis of effectiveness of the rule in achieving the objectives:

The Section effectively describes pre-application elements.

R18-1-509. Licensing Time-frames Supplemental Request Agreements.

1. Authorization of the rule by existing statutes

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The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rules is A.R.S. § 41-1075.

2. Objective of the rule

This Section prescribes the terms of supplemental request agreements. Title 41, Chapter 6, Article 7.1 (Article 7.1) identifies and describes such agreements. Subsection (A) clarifies that an applicant and the Department may enter into any number of supplemental request agreements with the time-frames suspending each time but that suspensions can last only until the receipt of missing information identified in the agreements. Subsection (B) prescribes the minimum terms that every supplemental request agreement must contain. These agreements are necessary because applicants do not always submit all of information in their applications that is sufficient to make a reasoned licensing decision.

3. Analysis of effectiveness of the rule in achieving the objectives:

The Section effectively prescribes the terms and operation of supplemental request agreements.

R18-1-510. Licensing Time-frames Extension Agreements.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. § 41-1075.

2. Objective of the rule

This Section prescribes the terms of time-frame extension agreements. Article 7.1 identifies and describes such agreements. Subsection (A) clarifies that an applicant and the Department may enter into any number of time-frame extension agreements. Subsection (B) prescribes how to determine the base time that, in turn, determines the maximum extent to which the sum of all agreements can extend the time-frames.. Subsection (C) prescribes the minimum terms that every time-frame extension agreement must contain.

3. Analysis of effectiveness of the rule in achieving the objectives:

This Section effectively prescribes the terms of time-frame extension agreements.

R18-1-511. Licensing Time-frames Changed Application Agreements.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. §§ 41-1072 through 41-1077.

2. Objective of the rule

This Section prescribes the terms of changed application agreements. The Department may offer these agreements for the benefit of applicants. The alternative to a changed application agreement is for the applicant to withdraw a pending application and resubmit as a new application with the desired changes. This Section balances the need of the applicant to minimize fee expenditures with the limitations on Departmental resources and the desire of other applicants for the timely resolution of their license applications

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively prescribes the operation and terms of changed application agreements.

R18-1-512. Reserved

R18-1-513. Repealed

R18-1-514. Reserved

R18-1-515. Reserved

R18-1-516. Reassignment of License Category.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. §§ 41-1072 through 41-1077.

2. Objective of the rule

This Section prescribes the conditions under which the Department may unilaterally reassign the license category of an application and then notify the applicant of the change. This Section gives the Department the necessary flexibility to reassign licenses to different categories when circumstances warrant while protecting the rights of applicants.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively describes when the Department can reassign a license to a different category and the rights of the applicant to reject the reassignment.

R18-1-517. Application Withdrawal.

1. Authorization of the rule by existing statutes

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The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. §§ 41-1072 through 41-1077.

2. Objective of the rule

This Section prescribes the operation and effect of withdrawn applications as ending all time-frames.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively provides that withdrawing an application ends all time-frames.

R18-1-518. Emergencies.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. §§ 41-1072 through 41-1077.

2. Objective of the rule

This Section prescribes the conditions under which the Department may suspend certain provisions of this Article. Two types of suspension are available: (1) a moratorium on the starting of time-frames on new applications and (2) the suspension of time-frames for applications already in process.

3. Analysis of effectiveness of the rule in achieving the objectives:

This Section effectively prescribes the conditions under which the Department may suspend certain provisions.

R18-1-519. Public Hearings.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. §§ 41-1072 through 41-1077.

2. Objective of the rule

This Section prescribes the applicability of the licensing time-frames to the noticing and holding of public hearings when such hearings are required before the Department may grant a license. The Section is needed to guarantee that notices and hearings are deemed valid.

3. Analysis of effectiveness of the rule in achieving the objectives:

This Section clarifies that once the substantive review time-frame begins, subsequent suspension or expiration of time-frames will not invalidate notice or hearings. This clarifies an ambiguity in Article 7.1 as A.R.S. § 41-1072(2) requires that “[a]ny public notice and hearings required by law shall fall within the substantive review time-frame.”

R18-1-520. Notice of Intent To Rely on the Application Components as Submitted.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. §§ 41-1072 through 41-1077.

2. Objective of the rule

This Section responds to certain appealable agency actions that Article 7.1 requires the Department to take during the pendency of a license application that are subject to the notice requirements of A.R.S. § 41-1092.03 and hearings before a department of administration administrative law judge. At least two Article 7.1 required actions fall into this category if they suspend the time-frames: the R18-1-503 notice of administrative deficiencies and the R18-1-504 substantive request for additional information. This rule provides other similar instances. This section promotes the smooth operation of time-frames because the decision to issue the R18-1-503 notice or R18-1-504 request (and thus suspend the time-frames) is determinative of an applicant's "legal rights, duties, or privileges" subject to A.R.S. §§ 41-1092 through 41-1092.11. Without the notice provisions provided in this rule, an applicant could pursue immediate appeals of R18-1-503 notices and R18-1-504 requests, causing needless complications to the operation of the time-frames, a consequence not addressed in Article 7.1.

3. Analysis of effectiveness of the rule in achieving the objectives:

The Section effectively describes the notice of intent to rely on application components.

R18-1-521. Notice of Intent To Rely on the License Category.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. §§ 41-1072 through 41-1077.

2. Objective of the rule

This Section is similar to the notice of intent to rely on application components submitted described immediately above and relates to R18-1-516. The decision to issue the notification of a changed license category in R18-1-516 is determinative of an applicant's "legal rights, duties, or privileges" subject to A.R.S. §§ 41-1092 through 41-1092.11, and without these notice provisions an applicant could pursue immediate appeals of R18-1-516.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively describes the notice of intent to rely on the license category.

R18-1-522. Notice of Change of Applicant's Agent for Receipt of Licensing Time-frames

Notices.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. §§ 41-1072 through 41-1077.

2. Objective of the rule

This Section provides the method by which an applicant may change the designation of its agent for receipt of licensing time-frames notices.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively provides the method by which an applicant may change the designation of its agent for receipt of licensing time-frames notices.

R18-1-523. Refunds, Fee Excusals, and Penalties.

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1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. § 41-1077.

2. Objective of the rule

This section prescribes Department procedures for determining and making license refunds, fee excusals, and penalty payments.

3. Analysis of effectiveness of the rule in achieving the objectives:

This section effectively prescribes Department procedures for determining and making license refunds, fee excusals, and penalty payments.

R18-1-524. Site Inspections.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. §§ 41-1072 through 41-1077.

2. Objective of the rule

The section harmonizes the requirements of Article 7.1 and A.R.S. § 41-1009 governing Department duties concerning site inspections by clarifying that the Department will limit the extent of its site inspections when made as an application component for an application subject to Article 7.1 so that no further notifications or other requirements under A.R.S. § 41-1009 will apply after the inspection is complete.

3. Analysis of effectiveness of the rule in achieving the objectives:

The Section effectively lists the responsibilities of an applicant and the Department regarding site inspections that are an application component.

R18-1-525. Licensing Time-frames: Application Components.

1. Authorization of the rule by existing statutes

The current general statute that authorizes the making of the rule is A.R.S. § 41-1003 and A.R.S. § 49-104(B)(4). The specific statute that authorizes the making of the rule is A.R.S. § 41-1073.

2. Objective of the rule

This Section references the license tables accompanying this rule. These tables, Table 1 through Table 22 are found in Part II of Article 5 and are the actual operational “time frames” which the Department must achieve.

3. Analysis of effectiveness of the rule in achieving the objectives:

The rule effectively lists the content contained on the license tables.

ARTICLE 5. LICENSING TIME-FRAMES

PART II – TIME FRAME TABLES

Table 1. Class I Air Licenses

Table 2. Class II Air Licenses

Table 3. Open Burning Licenses

Table 3-N. Repealed [by final rulemaking at 13 AAR 1854, effective June 30, 2007 (Supp 07-2)]

Table 3-S. Repealed [by final rulemaking at 13 AAR 1854, effective June 30, 2007 (Supp 07-2)]

Table 4. Vehicle Emission Licenses

Table 5. Safe Drinking Water Construction Licenses

Table 5-N. Repealed [by final rulemaking at 13 AAR 1854, effective June 30, 2007 (Supp 07-2)]

Table 5-S. Repealed [by final rulemaking at 13 AAR 1854, effective June 30, 2007 (Supp 07-2)]

Table 6. Repealed [by final rulemaking at 9 AAR 241, effective March 31, 2003 (Supp 03-1)]

Table 6-E. Repealed [by final rulemaking at 9 AAR 241, effective March 31, 2003 (Supp 03-1)]

Table 6-N. Repealed [by final rulemaking at 9 AAR 241, effective March 31, 2003 (Supp 03-1)]

Table 6-S. Repealed [by final rulemaking at 9 AAR 241, effective March 31, 2003 (Supp 03-1)]

Table 7. Pesticide Contamination Prevention Licenses

Table 7-N. Repealed [by final rulemaking at 9 AAR 241, effective March 31, 2003 (Supp 03-1)]

Table 7-S. Repealed [by final rulemaking at 9 AAR 241, effective March 31, 2003 (Supp 03-1)]

Table 8. Safe Drinking Water Monitoring and Treatment Licenses

Table 9. Repealed [by final rulemaking at 13 AAR 1854, effective June 30, 2007 (Supp 07-2)]

Table 10. Water Permit Licensing Time-frames

Table 11. Surface Water Licenses

Table 12. Solid Waste Licenses

Table 13. Special Waste Licenses

Table 14. Landfill Licenses

Table 15. Biohazardous Medical Waste Licenses

Table 16. Waste Tire, Lead Acid Battery, and Used Oil Licenses

Table 17. Hazardous Waste Licenses

Table 18. Underground Storage Tank Licenses

Table 19. Repealed [by final rulemaking at 13 AAR 1854, effective June 30, 2007 (Supp 07-2)]

Table 19-S. Repealed [by final rulemaking at 13 AAR 1854, effective June 30, 2007 (Supp 07-2)]

Table 20. Voluntary Program Remediation Licenses

Table 21. Pollution Prevention Licenses

Table 22. Multi-Program Licenses

INFORMATION THAT IS IDENTICAL THROUGHOUT ARTICLE 5, PART II

The following information is identical for all of these tables.

1. Authorization of the rule by existing statutes
 - a. The current general statute that authorizes the making of the rules is Arizona Revised Statutes (A.R.S.) § 49-104(B)(4). The specific statute that authorizes the making of the tables is A.R.S. § 41-1073.
 - b. Attachment A -- A.R.S. §§ 49-104(B)(4) and 41-1073.
2. Objective of the rule

The tables are divided along program lines and contain a numbered category list identifying every license issued by the program that is subject to Article 7.1.
3. Analysis of effectiveness of the rule in achieving the objectives:

Each table effectively lists the content contained on the license tables.
4. Analysis of consistency with state and federal statutes and rules

There are no federal statutes or regulations that pertain to licensing time-frames. These tables are consistent with State statutes and rules.
5. Status of enforcement of the rule

The licensing time-frames listed on the tables are being enforced adequately.

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6. Analysis of clarity, conciseness and understandability

The tables are clear, concise and understandable.

7. Written criticisms of rule received during the last five years

None.

8. Current Economic, small business, and consumer impact on the rules as compared to EIS at last rule adoption:

Both the Department and the applicants are expected to mutually gain from the keeping the tables current. The addition or deletion of a table does not impose new compliance and reporting requirements on applicants, but will provide all parties certainty in deadlines.

9. Analysis Submitted to the Agency by Another Person that Compares the Rule's Impact on this State's Business Competitiveness to the Impact on Businesses in Other States:

No such analysis has been submitted to ADEQ.

10. Completed Course of Action Indicated in Previous Five-Year Review Report:

Retain the current tables.

11. Determination that the Rule Imposes the Least Burden and Costs to Persons regulated by the Rule, Including Paperwork and Other Compliance Costs Necessary to Achieve the Underlying Regulatory Objective:

The rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective

12. Determination That the Rule is Not More Stringent Than a Corresponding Federal Law

There is no corresponding federal law therefore none of the timeframes are more stringent.

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13. For Rules Adopted After July 29, 2010 That Require The Issuance of A Regulatory Permit, License, or Agency Authorization, Whether the Rule Complies with §41-1037:

Not applicable.

14. Proposed course of action

No revisions are planned.

ATTACHMENT A

IMPLEMENTING STATUTES

A.R.S. § 49-104(B)(4)

A.R.S. §§ 41-1001 through 41-1092.12

ATTACHMENT B

EXISTING RULES

TITLE 18. ENVIRONMENTAL QUALITY**CHAPTER 1. DEPARTMENT OF ENVIRONMENTAL QUALITY
ADMINISTRATION**

Chapter 1, consisting of Sections R18-1-101, R18-1-201 through R18-1-213, R18-1-215 through R18-1-219, R18-1-301 through R18-1-306, R18-1-401, and R18-1-402 adopted effective July 7, 1988.

ARTICLE 1. DEFINITIONS

Section
R18-1-101. Definitions

ARTICLE 2. ADMINISTRATIVE APPEALS

Section
R18-1-201. Applicability
R18-1-202. Notice of Appeal
R18-1-203. Contested Case Procedures
R18-1-204. Record of Administrative Appeal
R18-1-205. Notice of Intent to Rely on License Application Components as Submitted
R18-1-206. Adjudicative Proceedings Before the Department
R18-1-207. Requests for Rehearing or Review
R18-1-208. Repealed
R18-1-209. Repealed
R18-1-210. Repealed
R18-1-211. Repealed
R18-1-212. Repealed
R18-1-213. Repealed
R18-1-214. Reserved
R18-1-215. Repealed
R18-1-216. Repealed
R18-1-217. Repealed
R18-1-218. Repealed
R18-1-219. Repealed

ARTICLE 3. PUBLIC PARTICIPATION IN RULEMAKING

Section
R18-1-301. Agency Record
R18-1-302. Petition for Rule Adoption, Amendment or Repeal
R18-1-303. Written Comments During Rulemaking
R18-1-304. Oral Proceedings
R18-1-305. Expired
R18-1-306. Written Criticism of Rule

**ARTICLE 4. PUBLIC NOTICE AND GENERAL PUBLIC
HEARINGS**

Section
R18-1-401. Notice
R18-1-402. General Public Hearing Procedures

ARTICLE 5. LICENSING TIME-FRAMES

Article 5, consisting of Sections R18-1-501 through R18-1-525, adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

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ARTICLE 1. DEFINITIONS

R18-1-101. Definitions

The definitions in A.R.S. § 41-1001, except for the definition of “person”, shall apply to this Chapter. In addition, the terms in this Chapter shall have the following meanings:

1. “Attorney general” means the attorney general of the state of Arizona and includes any assistant attorneys general or other attorneys appointed by the Office of the Attorney General to represent the Department at a contested case.
2. “Department” means the Department of Environmental Quality.
3. “Director” means the Director of the Department of Environmental Quality or the Director’s designee.
4. “General public hearing” means a hearing, subject to the requirements of Article 4, held to obtain comment from the public with respect to Department actions. “General public hearing” shall not include oral proceedings, or contested case hearings.
5. “Hearing officer” means an individual appointed by the Director to perform the duties described in R18-1-203 at any contested case hearing.
6. “Oral proceeding” means a proceeding held during the rulemaking process, as described by A.R.S. § 41-1023.
7. “Person” means an individual, employee, officer, managing body, trust, firm, joint stock company, consortium, public or private corporation, including a government corporation, partnership, association, state, a political subdivision of this state, or commission or the United States Government or a federal facility, interstate body or other entity.
8. “Presiding officer” means any individual appointed by the Director to perform the duties described in R18-1-304 at any oral proceeding.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3).

ARTICLE 2. ADMINISTRATIVE APPEALS

R18-1-201. Applicability

Sections R18-1-202 through R18-1-205 and R18-1-207 govern notices of administrative appeal filed with the Department and requesting a hearing before the Office of Administrative Hearings or a body of formal administrative adjudication other than the Department.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-202. Notice of Appeal

When the Department determines that an agency action is an appealable agency action, the Department shall serve notice as prescribed in A.R.S. § 41-1092.03(A). Any failure of the Department to serve notice of an appealable agency action under A.R.S. § 41-1092.03(A) does not prevent a party from requesting a hearing under § 41-1092.03(B) if the request is made within 30 days of the date on the Departmental notice of the action giving rise to the request. The Department shall forward all hearing requests

made under A.R.S. § 41-1092.03 to the Office of Administrative Hearings.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 3772, effective September 22, 1999 (Supp. 99-3).

R18-1-203. Contested Case Procedures

- A. Subject to the provisions at A.R.S. §§ 41-1092.01 and 41-1092.02 and except as provided at subsection (B), the Department shall apply the notice and informal settlement conference provisions at A.R.S. §§ 41-1092.03 and 41-1092.06 to contested cases that are appealable through the Office of Administrative Hearings.
- B. If A.R.S. Title 49 provides a time limit on the filing of a notice of administrative appeal, then the person filing the notice of administrative appeal shall comply with that filing time limit.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-204. Record of Administrative Appeal

The Department shall preserve a record of an administrative appeal of a contested case or appealable agency action for a period of three years commencing on the date the notice of appeal is filed with the Department or during the time an appeal of the matter is still pending, whichever is longer. If not made confidential by law, the Department shall make the record available for public inspection upon request.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-205. Notice of Intent to Rely on License Application Components as Submitted

- A. If the Department submits to a license applicant a notice that the application is missing required components, is substantively deficient, or is otherwise deficient, or submits to a license applicant a request for additional information to enable the Department to reach a decision to grant the license, then the Department shall include a brief explanation of the basis of or reason for the notice or request.
- B. If a license applicant receives a notice from the Department that the application is lacking application components, is substantively deficient, or is otherwise deficient, or receives from the Department a request for additional information, the applicant, in lieu of submitting some or all of the components or information identified by the Department, may submit to the Department a written notice of intent to rely on the application components as submitted. The applicant shall submit the notice of intent to rely on the application components as submitted within the time specified in the Department’s notice of deficiencies or request for additional information. If the Department’s notice of deficiencies or request for additional information does not specify a time, then the applicant shall submit the notice of intent to rely on the application components as submitted within 60 days after the mailing date of the Department’s notice of deficiencies or request for additional information.
- C. A notice of intent to rely on the application components as submitted shall include the following:
 1. Name of the applicant.
 2. License application number or other identification.
 3. Date of the Department notice or request in question.

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4. Identification of the application component or components objected to with reasons for the objection or objections.
 5. A statement that the applicant intends to rely on the application components as submitted as the basis upon which the Department may determine whether to grant or deny the license.
- D.** A license applicant may submit additional license application components or other information at the same time the applicant submits a notice of intent to rely on the application components as submitted.
- E.** The Department, after receiving a notice of intent to rely on the license application components as submitted, shall do one of the following:
1. Rescind its request for the application component or components objected to in the notice.
 2. Modify its request for the application component or components objected to in the notice.
 3. Grant the license unconditionally, meaning that the Department did not add conditions not requested by the applicant.
 4. Grant the license with conditions, meaning that the Department added conditions not requested by the applicant.
 5. Deny the license.
- F.** To the extent that a licensing provision of the Arizona Revised Statutes requires different treatment of licensing notifications of application deficiencies or licensing requests for additional information, this Section does not apply.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-206. Adjudicative Proceedings Before the Department

The Department shall use rules of the Office of Administrative Hearings to govern the initiation and conduct of formal adjudicative proceedings before the Department.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-207. Requests for Rehearing or Review

A party to a formal adjudicative proceeding before the Office of Administrative Hearings or the Department may obtain a rehearing or review of the decision that is based on the proceeding, as follows:

1. The party shall file with the Department a written motion for rehearing or review of the decision not later than 30 days after service of the decision upon the party.
2. An opposing party may file with the Department a written response to the motion for rehearing or review not later than 15 days after service of the motion for rehearing or review upon the opposing party.
3. Service is complete on personal service or five days after the date the decision or motion is mailed to the party or opposing party.
4. The Director may require the filing of written briefs upon the issues raised in the motion or response and may provide for oral argument.
5. The Director shall decide whether to grant a motion for rehearing or review of the decision within 15 days after the response to the motion is filed or, if a response is not filed, within five days after the expiration of the response period. The Director shall grant a rehearing or review for

any of the following reasons and shall specify the reasons:

- a. The decision is not justified by the evidence or is contrary to law.
- b. There is newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original proceeding.
- c. One or more of the following has deprived the party of a fair hearing:
 - i. Irregularity or abuse of discretion in the conduct of the proceeding.
 - ii. Misconduct of the Department, its hearing officer, or the prevailing party.
 - iii. Accident or surprise which could not have been prevented by ordinary prudence.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3)

R18-1-208. Repealed**Historical Note**

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-209. Repealed**Historical Note**

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-210. Repealed**Historical Note**

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-211. Repealed**Historical Note**

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-212. Repealed**Historical Note**

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-213. Repealed**Historical Note**

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-214. Reserved**R18-1-215. Repealed****Historical Note**

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-216. Repealed**Historical Note**

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-217. Repealed**Historical Note**

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-218. Repealed**Historical Note**

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

R18-1-219. Repealed**Historical Note**

Adopted effective July 7, 1988 (Supp. 88-3). Section repealed by final rulemaking at 5 A.A.R. 2854, effective July 30, 1999 (Supp. 99-3).

ARTICLE 3. PUBLIC PARTICIPATION IN RULEMAKING**R18-1-301. Agency Record**

The official rulemaking record is located in the Department and may be reviewed any working day, Monday through Friday, from 8:00 a.m. until 5:00 p.m., except state holidays.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3).

R18-1-302. Petition for Rule Adoption, Amendment or Repeal

- A. Any person requesting that the Department adopt, amend, or repeal a rule, pursuant to A.R.S. § 41-1033, shall submit a petition as prescribed in this Section before such request may be considered by the Department.
- B. Each petition shall contain:
 1. The name and current address of the person submitting the petition.
 2. If the request is for adoption of a new rule, a statement of that fact, followed by the specific language of the proposed rule.
 3. If the request is for amendment of a current rule, a statement of that fact, followed by the A.A.C. number and title of the rule being proposed for amendment. This shall be followed by the specific language of the current rule; any language to be deleted shall be struck out but clearly readable, and any language to be added by the proposed amendment shall be underlined.
 4. If the request is for repeal of a current rule, a statement of this fact, followed by the A.A.C. number and title of the rule being proposed for repeal.
 5. The signature of the person submitting the petition.
 6. The reason the rule should be adopted, amended or repealed.
- C. The petition may contain any information to support subsection (B)(6) of this Section, including:
 1. Any statistical data or other justification, with clear reference to any exhibits which may be attached to the petition;

2. An identification of what persons or segment of the public the petitioner believes would be affected and how they would be affected;
3. If the petitioner is a public agency, the petition may also contain a summary of issues raised in any public hearing which may be relevant, or any written comments offered by the public;
4. The identification of any statute which the petitioner believes gives the Department the authority to adopt, amend, or repeal the rule.

D. Within 60 calendar days of the receipt by the Director of a complete petition, the Department shall act in accordance with A.R.S. § 41-1033 as follows:

1. If the petition results in the initiation of a rulemaking, the procedures for rulemaking, set forth in Title 41, Chapter 6, Article 3, Arizona Revised Statutes, shall be followed.
2. If the petition is denied, a written notice stating the basis of denial shall be issued by the Director to the person filing the petition.
3. The original petition and a copy of any notice of denial shall be placed in the official record and remain there for five years to be considered in the course of the Department's five-year rule review process.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3).

R18-1-303. Written Comments During Rulemaking

- A. Any member of the public may comment upon a rule proposed by the Department by submitting written comments on the proposed rule to the Director.
- B. Any document is considered to have been submitted on the date it is received by the Department. If a document is mailed, this date shall be the date on the postmark.
- C. All written comments received during the period specified by A.R.S. § 41-1023(A) shall be considered by the Department.
- D. All original written comments on proposed rules shall be placed in the official record.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3).

R18-1-304. Oral Proceedings

- A. Requests for oral proceedings, as prescribed in A.R.S. § 41-1023, shall:
 1. Be filed with the Director;
 2. Include the name and current address of the person making the request;
 3. Refer to the proposed rule and include the date and issue of the Arizona Administrative Register in which the notice was published, if known.
- B. The oral proceeding shall be recorded either by an electronic recording device or stenographically, and any resulting cassette tapes or transcripts, registers and all written comments received shall become part of the official record.
- C. The procedures the presiding officer shall use to conduct oral proceedings shall include:
 1. Voluntary registration of attendees. Identification shall not be required, however, in order for a person to attend an oral proceeding.
 2. Registration of persons intending to speak. Registration information shall include the registrant's name, representative capacity, if applicable, and a brief summary of intended oral remarks.
 3. Opening of the record. Opening remarks by the presiding officer shall summarize the rulemaking activities to date and the importance and purpose of public comments, and present the agenda.

4. A statement by Department representatives. The statement shall explain the contents, purpose and intended operation of the proposed rulemaking, including the economic impact and any adverse impact on small businesses.
 5. A public oral comment period. Public oral comments may be limited to a reasonable time period, as determined by the presiding officer. Comments may be limited to prevent undue repetition.
 6. Further presentations. The Department may present additional information during an oral proceeding, after public comments are received. Any person shall have the opportunity to respond to this presentation during the proceeding.
 7. Closing remarks. The presiding officer shall identify relevant, future rulemaking dates and shall announce the location where the record may be reviewed and the date and time of close of record.
- D.** Within 10 working days of close of the record of an oral proceeding, or a longer period if approved by the Director, the presiding officer shall file a written memorandum summarizing the contents of all oral presentations made during the proceeding, and shall transmit any original cassette tapes and written submissions to the Director.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3).

R18-1-305. Expired**Historical Note**

Adopted effective July 7, 1988 (Supp. 88-3). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 5018, effective August 31, 2002 (Supp. 02-4).

R18-1-306. Written Criticism of Rule

- A.** Any person may file a written criticism of an effective rule with the Director.
- B.** The criticism shall clearly identify the rule addressed, and specify why the existing rule is inadequate, unduly burdensome, unreasonable or otherwise considered to be improper.
- C.** The Director shall acknowledge receipt of any criticism within 10 working days and shall place the criticism in the official record, for review by the Department, pursuant to A.R.S. § 41-1054.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3).

ARTICLE 4. PUBLIC NOTICE AND GENERAL PUBLIC HEARINGS**R18-1-401. Notice**

- A.** When notice is required by statute or rule, and notice procedures are not otherwise prescribed by statute or rule, the Department shall:
 1. Publish the notice as a legal notice at least once, in one or more newspapers of general circulation in the county or counties concerned;
 2. Include in the notice the following information:
 - a. The major issue under consideration or a description of the reason for the action;
 - b. The Department's proposed action and effective date for that action;
 - c. The location where relevant, nonconfidential documents may be obtained and reviewed during normal business hours;

- d. The name, address and telephone number of a person within the Department who may be contacted for further information;
- e. The location where public comments may be addressed, and the date and time by which comments shall be received.

- B.** In addition to meeting the requirements in subsection (A), a notice for a general public hearing shall include the following information:
1. The time and location of the general public hearing;
 2. A statement to the effect that any person may appear at the hearing and present views, either orally or in writing;
 3. The time by which a decision shall be reached;
 4. The exact nature of the action or issues to be discussed.
- C.** The notice for a general public hearing described in this Section shall be published at least 30 days prior to the date of the hearing unless otherwise prescribed by statute or rule.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3).

R18-1-402. General Public Hearing Procedures

- A.** If a general public hearing is required by statute or by rule, the hearing shall be noticed as required in R18-1-401.
- B.** The Department shall maximize the opportunity for public participation at a general public hearing and shall consider all of the following when scheduling the general public hearing:
 1. A location in or near the geographical area of the issue addressed in the hearing, and easily accessible to a majority of the affected public;
 2. A time which can facilitate public attendance;
 3. Other hearings concerning the public, in the same geographical area, which may be scheduled for the same time and location.
- C.** The Department may schedule persons wishing to speak, and Department personnel knowledgeable about the issue shall be present to provide information.
- D.** A general public hearing shall be conducted so as to do both of the following:
 1. Inform the public of the exact nature of the action or issue, and
 2. Allow time for persons to make statements and submit written comments.
- E.** The person presiding at a general public hearing shall maintain order and may allot equitable time periods for oral comment by participants.
- F.** A general public hearing shall be recorded by means of an electronic device or stenographically.
- G.** The record of a general public hearing shall be maintained by the Department and made available for public inspection, during normal business hours, at the location specified in the public notice. The record of the hearing shall include the agenda, written comments submitted before the close of record, and the tape or transcript of the hearing.

Historical Note

Adopted effective July 7, 1988 (Supp. 88-3).

ARTICLE 5. LICENSING TIME-FRAMES**R18-1-501. Definitions**

In addition to the definitions provided in A.R.S. § 41-1001, § 41-1072, and R18-1-101, the following definitions apply to this Article:

1. "Administrative completeness" or "administratively complete" means Department receipt of all application components required by statute or rule and necessary to enable the Department to issue a notice of administrative

- completeness under A.R.S. § 41-1074 and thereby end the administrative completeness review time-frame and start the substantive review time-frame.
2. “Administrative completeness review” means the process of clerical verification by the Department to determine whether the submitted application components meet the requirements of administrative completeness.
 3. “Applicant” means a person who requests the Department to issue a license.
 4. “Applicant response” means a written response from the applicant to a Department notice that complies with all the following:
 - a. The response identifies the applicant.
 - b. The response identifies the Department notice.
 - c. The response is addressed to the Department employee identified in the Department notice as the designated recipient of the notice.
 - d. The response contains the required information identified in the Department notice or the response contains a notice under R18-1-520 to rely on the application components as submitted.
 5. “Application” means a request to the Department to issue a license to the requestor when that request is in writing and complies with R18-1-502 and R18-1-503(A).
 6. “Application clerk” means a Department employee with authority to receive applications for a specific license or an application component or applicant response.
 7. “Application component” means a document, other written information, or fee required by statute or rule and submitted to the Department in support of an application.
 8. “Companion category” means one of an association of two or more consecutive categories, shown on the license tables with paired license names, and containing a distinction between “standard” and “complex”, between “without a public hearing” and “with a public hearing”, or “without a public meeting” and “with a public meeting”.
 9. “Complex” means an application category that requires significantly more Department resources to review the application than applications processed in a companion standard category due to the size, novelty, complexity, or technical difficulty expressed in the application.
 10. “Comprehensive request for additional information” means a Department notification made after the administrative completeness review time-frame that:
 - a. Contains a list of information required by statute or rule and necessary before the Department may grant the license; and
 - b. Suspends the running of days within the time-frames.
 11. “Day” means business day and excludes Saturdays, Sundays, and state holidays.
 12. “Department notification” or “Department notice” means written communication by the Department to an applicant in person or at the mailing or electronic address identified on the application. The Department may notify the applicant at the applicant’s electronic address only if the applicant provides that address as part of an application component. The notification is effective:
 - a. If mailed, on the date of its postmark.
 - b. If delivered in person by a Department employee or agent, on the date of delivery.
 - c. If delivered electronically, on the date of delivery to the electronic address.
 13. “Department receipt” of an application component or an applicant response means one of the following days:
 - a. If the component or response is handed to an application clerk by the applicant, the day of actual receipt by the application clerk.
 - b. If the component or response is mailed, five days after the postmark identifying the mailing date.
 - c. If the component or response is delivered to an electronic address of an application clerk, one day after the date of delivery to the electronic address.
 - d. If the Department notifies the applicant of receipt within five days after the date of actual receipt, the day of actual receipt of the component or response by the application clerk.
 - e. If delivered during an application moratorium or time-frame suspension declared under R18-1-518, the day after the moratorium or suspension ends.
 14. “Electronic address” means either a telephone number for facsimile document communication (fax) or an electronic mail (e-mail) address. “Electronic address” does not mean a telephone number for voice or TDD (telephone device for the deaf) communication.
 15. “Fee excusal” means the sanction imposed on a Department fund under A.R.S. § 41-1077(A) that requires the Department to excuse further fees required from the applicant by the Department.
 16. “Initial fee” means that part of the fee required to be submitted under R18-1-503(A).
 17. “License category” means a category identified on a license table.
 18. “License table” means a table within this Article.
 19. “Licensing time-frame” means any of the time-frames identified in A.R.S. §§ 41-1072 through 41-1079, the operation of which requires the Department to report its compliance level for overall time-frames to the Governor’s Regulatory Review Council under A.R.S. § 41-1078(A).
 20. “Licensing time-frame agreement” means an agreement made under any of the Sections R18-1-508 through R18-1-512.
 21. “Penalty” means the sanction imposed on a Department fund under A.R.S. § 41-1077(B).
 22. “Phased application” means an application processed pursuant to a licensing time-frame agreement that allows the applicant to submit application components in two or more phases with each phase providing for administrative completeness review.
 23. “Pre-application” means the period prior to Department receipt of an applicant’s first application component submittal under R18-1-503(A).
 24. “Presumptive administrative completeness” means the expiration of the administrative completeness review time-frame and the automatic start of the running of days within the substantive review time-frame under A.R.S. § 41-1074(C) as a result of the Department failing to issue a notice of administrative completeness under A.R.S. § 41-1074(A).
 25. “Presumptive overall time-frame” means the sum of the days shown for the administrative completeness review and substantive review time-frames on the license tables for that license category and may be different from the actual overall time-frame because the presumptive overall time-frame does not include a lengthening of the time-frame due to a time-frame extension agreement or a shortening of the time-frame due to early starting of the substantive review time-frame caused by the issuance of a notice of administrative completeness.

26. “Presumptive substantive review time-frame” means the days shown for the substantive review time-frame on the license tables for a license category.
27. “Refund” means the sanction imposed on a Department fund under A.R.S. § 41-1077(A) that requires the Department to refund fees already paid by the applicant into that fund.
28. “Request for additional information” means a Department notification or contact made after the administrative completeness review time-frame and that identifies information required by statute or rule and necessary before the Department may grant the license.
29. “Sanction” means a refund, fee excusal, or penalty under A.R.S. § 41-1077.
30. “Site inspection” means an inspection performed by the Department under A.R.S. § 41-1009 as part of a required component of an application for a license shown on the license tables.
31. “Substantive review” means the process of qualitative evaluation by the Department of application components to determine whether the components meet all requirements in statute or rule and necessary to grant the license. “Substantive review” does not include clerical verification of the components nor does it include Department investigations resulting from reporting or notification requirements.
32. “Time-frame extension” means the entire period after the overall time-frame would otherwise expire and during which an application is not subject to sanctions. The substantive review and overall time-frames continue in effect and do not expire during the time-frame extension.
33. “Withdrawn application” means an application that has ceased to be subject to this Article due to the applicant’s request that the Department cease all consideration of the application under R18-1-517. An applicant’s ability to withdraw an application is not governed by this Article.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

R18-1-502. Applicability; Effective Date

- A.** This Article does not apply to any of the following:
1. A license not requiring an application.
 2. A license conferred by a notification to the Department of an event, activity, or facility and that is not conferred by the Department in the form of a written license issued to the prospective licensee in response to the notification.
 3. A license issued at the Department’s initiative.
 4. A license issued by default if the Department does not make a licensing decision within a time identified in statute or rule.
 5. A license not identified in a category shown on the license tables.
 6. A license required under an abatement or compliance order or consent agreement, if a time-frame in the order or consent agreement is different than the time-frame for the license category. The time-frame in the order or consent agreement shall supersede the time-frame for the license category.
 7. An application for which the applicant is not the prospective licensee.
 8. Compliance activity by licensees in conformance with an issued license except for license renewal or revision activity.
- B.** If an application becomes subject to this Article, it remains subject to the terms of the original license category in which it was classified unless the application is withdrawn, is altered by a licensing time-frames agreement, or is changed under R18-1-516. If altered by a licensing time-frames agreement, the terms of the original license category are modified only to the extent expressly stated in the licensing time-frames agreement.
- C.** If an Arizona statute or other rule in this Title conflicts with this Article, the statute or other rule governs except that only this Article determines whether an applicant is entitled to a refund and fee excusal due to Department failure to notify an applicant of a licensing decision within a licensing time-frame under A.R.S. § 41-1077(A).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

R18-1-503. Administrative Completeness Review Time-frame Operation; Administrative Completeness

- A.** The administrative completeness review time-frame for an application begins on the day of Department receipt of the first component submittal in support of the application that contains all the following:
1. Identification of the applicant.
 2. If the license is for a facility, identification of the facility.
 3. Name and mailing address of the applicant and, if applicable, the applicant’s agent authorized by the applicant to receive all notices issued by the Department under this Article.
 4. Identification of the license category in which the application shall be first processed. If companion categories are shown on a license table for this license, the application shall be first processed in the companion category that is determined as follows:
 - a. If “standard” and “complex” categories are shown, in the “standard” category.
 - b. If “without a public hearing” and “with a public hearing” are shown, in the “without a public hearing” category.
 - c. If “without a public meeting” and “with a public meeting” are shown, in the “without a public meeting” category.
 5. Completed Department application form if required for the license category.
 6. Initial fee if required for the license category.
 7. All application components required by statute or rule necessary for the Department to determine whether an application is administratively complete.
- B.** The administrative completeness review time-frame for an application ends on the earlier of the following days:
1. The day the Department notifies the applicant that the application is administratively complete under A.R.S. § 41-1074.
 2. If the Department does not notify the applicant that the application is administratively complete under A.R.S. § 41-1074, the last day shown for the administrative completeness review time-frame for the relevant license category on the license tables.
- C.** If a notice of administrative deficiencies states that the Department is suspending the running of days within the time-

frames until the applicant supplies the missing information identified on a comprehensive list of specific deficiencies included with the notice, the running of days within the administrative completeness review time-frame suspends on the day of notification.

- D. If suspended, the running of days within the administrative completeness review time-frame remains suspended from the time of the first notice under subsection (C) of this Section until the applicant supplies the Department all missing information identified on the comprehensive list of specific deficiencies.
- E. If the Department determines that an applicant has submitted all application components required by statute or rule within the administrative completeness review time-frame and necessary to allow the Department to grant the license, the Department shall notify the applicant that the application is administratively complete under A.R.S. § 41-1074.
- F. If presumptive administrative completeness occurs:
 1. Further notices of administrative deficiencies issued under subsection (C) of this Section will not suspend the running of days within the substantive review or overall time-frames and
 2. The Department does not waive the requirement for the applicant to submit all application components necessary to allow the Department to grant the license.
- G. The running of days within the administrative completeness review time-frame also suspends and resumes under R18-1-518 (emergencies).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

R18-1-504. Substantive Review Time-frame Operation; Requests for Additional Information

- A. The substantive review time-frame for an application begins on one of the following days:
 1. If the Department notifies the applicant that the application is administratively complete before the expiration of the administrative completeness review time-frame, one day after notification.
 2. If the Department does not notify the applicant that the application is administratively complete before the expiration of the administrative completeness review time-frame, one day after expiration.
- B. The substantive review time-frame for an application ends on the earlier of the following days:
 1. The day of Department notification that it has made a licensing decision under A.R.S. § 41-1076 and R18-1-507.
 2. The last day shown for the substantive review time-frame for the license category on the license tables.
- C. If the Department notifies the applicant to respond to a comprehensive request for additional information, the running of days within the substantive review time-frame is suspended beginning on the day of Department notification. The Department may issue only one comprehensive request that suspends the running of days within the substantive review time-frame under A.R.S. § 41-1075(A).
- D. The running of days within the substantive review time-frame remains suspended from the time of the notice under subsection (C) until the applicant supplies all missing information to the Department.
- E. The running of days within the substantive review time-frame also suspends and resumes under R18-1-518 (emergencies).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

R18-1-505. Overall Time-frame Operation

- A. The overall time-frame for an application begins on the same day as the administrative completeness review time-frame.
- B. The running of days within the overall time-frame suspends and resumes in concert with the administrative completeness and substantive review time-frames and time-frame extensions.
- C. The duration of the overall time-frame equals the sum of all the following days unless altered by R18-1-508 (licensing time-frames pre-application agreements) or R18-1-511 (changed licensing time-frames agreements):
 1. The lesser of:
 - a. The number of days shown for the administrative completeness review time-frame on the license tables, or
 - b. The actual number of days for the administrative completeness review time-frame if the Department notifies the applicant under R18-1-503(E) that the application is administratively complete before the expiration of the administrative completeness review time-frame;
 2. The lesser of:
 - a. The number of days shown for the substantive review time-frame on the license tables,
 - b. The actual number of days for the substantive review time-frame if the Department notifies the applicant of a licensing decision under R18-1-504(B)(1), or
 - c. The actual number of days for the substantive review time-frame if the applicant causes the time-frames to end under R18-1-507(D); and
 3. The number of days added by one or more licensing time-frames extension agreements under R18-1-510.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

R18-1-506. Time-frame Extension Operation

- A. If created by a licensing time-frames extension agreement under R18-1-510, the time-frame extension for an application begins one day after the substantive review and overall time-frames would otherwise expire and operates as if they were still in operation.
- B. The time-frame extension for an application ends on one of the following days, whichever is earlier:
 1. The day of Department notification that it has made a licensing decision under A.R.S. § 41-1076 and R18-1-507.
 2. The day shown for the expiration of the time-frame extension identified in the time-frame extension agreement.
- C. The Department may notify an applicant to respond to one comprehensive request for additional information during the time-frame extension on the same terms as prescribed in R18-1-504 except that the Department shall not make more than one comprehensive request for additional information under both R18-1-504 and this Section.
- D. An applicant and the Department may enter into one or more licensing time-frames supplemental request agreements during

the time-frame extension on the same terms as prescribed in R18-1-509.

- E. The running of days within the time-frame extension also suspends and resumes under R18-1-518 (emergencies).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

R18-1-507. Ending of Time-frames; Licensing Decisions; Withdrawal; Notice of Licensing Time-frames Nonapplicability

- A. Department notification of the grant or denial of a license ends the running of all licensing time-frames for an application.
- B. The Department may deny a license if the applicant submits incomplete or inaccurate information in response to a notice of administrative deficiencies under R18-1-503, a request for additional information or a comprehensive request for additional information under R18-1-504, a supplemental request for additional information under R18-1-509, or any other deficiency in the application that prevents the Department from exercising its authority to grant the license.
- C. The Department may deny a license if the applicant fails to respond in a reasonably timely manner to a notice of administrative deficiencies under R18-1-503, a request for additional information or a comprehensive request for additional information under R18-1-504, or a supplemental request for additional information under R18-1-509, and the deficiency in the application prevents the Department from exercising its authority to grant the license. In determining whether an applicant has failed to respond to a notice or request in a reasonably timely manner and the deficiency in the application prevents the Department from exercising its authority to grant the license, the Department shall consider the following factors:
1. The nature of the information requested.
 2. The time that an applicant has been given in the notice or request to respond relative to the overall time-frame for that category of license.
 3. The extent to which the Department's ability to process applications for that license category or related license categories is adversely affected by overdue responses for information.
- D. Department notice of the denial of a license shall include all the following:
1. A justification for the denial under A.R.S. § 41-1076(1).
 2. An explanation of the applicant's right to appeal the action under A.R.S. §§ 41-1076(2) and 41-1092.03(A).
 3. An explanation of the applicant's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.
- E. The following actions by the applicant are sufficient to end all time-frames for an application:
1. Withdrawing the application under R18-1-517.
 2. Entering into a changed licensing time-frames agreement under R18-1-511.
- F. If the Department determines during its review of an application that the application is not subject to this Article, the Department shall notify the applicant that the application is not subject to this Article. The Department notification shall contain the Department's reason for making the determination. Department notification under this subsection causes all time-frames for the application to end.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

R18-1-508. Licensing Time-frames Pre-application Agreements

- A. An applicant and the Department may enter into a licensing time-frames pre-application agreement to allow the applicant to do one or more of the following:
1. Submit certain application components in one or more phases during the substantive review time-frame.
 2. Coordinate the licensing time-frames requirements of this Article with expedited application review by a private consultant under contract with the Department for that purpose.
 3. Coordinate the licensing time-frames requirements of this Article with an applicant's requirements to apply for and obtain other approvals reasonably related to the subject matter of the application.
- B. A licensing time-frames pre-application agreement shall contain at least the following terms:
1. Unless otherwise specified in the agreement, all requirements of this Article remain in effect.
 2. A waiver under A.R.S. § 41-1004 by the applicant of its rights to the number of time-frame days identified on the license tables in consideration of the Department allowing the applicant to enter into a licensing time-frames pre-application agreement.
 3. Identification of application components.
 4. The number of days for the administrative completeness review time-frame and the substantive review time-frame. Time spent in pre-application review shall not count toward the running of days within the time-frames.
 5. A fee adjustment, if appropriate.
 6. Identification of the license category within which the Department shall begin processing the application.
- C. A licensing time-frames pre-application agreement that allows the applicant to submit certain application components in one or more phases during the substantive review time-frame shall contain at least the terms identified in subsection (B) of this Section and the following terms:
1. The overall time-frame shall not be less than the presumptive overall time-frame identified in subsection (B)(6) of this Section.
 2. The administrative completeness review time-frame shown for the license category identified in subsection (B)(6) of this Section shall apply only to the first application phase.
 3. The applicant may submit components otherwise required for administrative completeness in subsequent phases during the substantive review time-frame only to the extent that the agreement specifies deadlines for each subsequent application phase and identifies the application components required in each subsequent phase. The Department may notify the applicant to respond to a notice of administrative deficiencies within 15 days after each subsequent submittal or the deadline identified in the agreement for each subsequent phased application component submittal.
 4. The Department may suspend the running of days within the time-frames once in each application phase with a comprehensive request for additional information on the same terms as prescribed under R18-1-504.
- D. The Department shall consider all the following factors when determining whether to enter into a licensing time-frames pre-application agreement:
1. The complexity of the licensing subject matter. The Department shall not enter into an agreement if the presumptive substantive review time-frame is less than 90 days.

2. The resources of the Department. The Department shall not enter into an agreement if the Department determines that either the negotiation of the agreement or the terms of the agreement are likely to require the Department to expend additional resources to the significant detriment of other applicants.
3. The impact on public health and safety or the environment. The Department shall not enter into an agreement if the Department determines that the terms of the agreement are likely to cause a significant increase or change in the nature of the potential detrimental effects of the facility or activity to be governed by the license on public health and safety or the environment.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

R18-1-509. Licensing Time-frames Supplemental Request Agreements

- A. An applicant and the Department may enter into one or more licensing time-frames supplemental request agreements to allow the suspension of the running of days within the relevant substantive review and overall time-frames and time-frame extensions pending a response from the applicant to a supplemental request for additional information under A.R.S. § 41-1075(A). A request for additional time alone is not a valid justification for a supplemental request agreement.
- B. A licensing time-frames supplemental request agreement shall contain at least the following terms:
 1. Unless otherwise specified in the agreement, all requirements of this Article remain in effect.
 2. A list of the additional information requested.
 3. The running of days within the relevant substantive review and overall time-frames and time-frame extensions shall suspend and resume under Sections R18-1-504 through R18-1-506.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

R18-1-510. Licensing Time-frames Extension Agreements

- A. An applicant and the Department may enter into one or more time-frames extension agreements to extend the substantive review and overall time-frames under A.R.S. § 41-1075(B).
- B. The total of all time-frames extension agreements may extend the time-frames no more than 25% of the number of days beyond the presumptive overall time-frame or, if identified as a fixed number in an R18-1-508 pre-application agreement, the presumptive overall time-frame in that agreement. A calculation that results in a fraction of a day shall be rounded to the nearest day.
- C. A time-frames extension agreement shall contain at least the following terms:
 1. Unless specified otherwise in the agreement, all requirements of this Article remain in effect.
 2. The number of time-frame extension days.
 3. The agreement creates a time-frame extension that operates under R18-1-506.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

R18-1-511. Licensing Time-frames Changed Application Agreements

- A. An applicant and the Department may enter into a licensing time-frames agreement to allow the applicant to change

information previously submitted in support of a license application and to supersede the time-frames of that application with new time-frames. A changed licensing time-frames agreement causes all time-frames on the application to end under R18-1-507(D) and creates a new set of time-frames that operates under the agreement.

- B. A changed licensing time-frames agreement shall contain at least the following terms:
 1. Unless specified otherwise in the agreement, all requirements of this Article remain in effect.
 2. A waiver under A.R.S. § 41-1004 by the applicant of its rights to the number of time-frame days identified on the license tables in consideration of the Department allowing the applicant to change the information submitted in support of a changed application.
 3. Identification of application components required in support of the changed application.
 4. The number of time-frame days applicable to the changed application.
 5. A fee adjustment, if appropriate.
 6. Identification of the license category within which the Department shall continue processing the changed application.
- C. The Department shall consider all the following factors when determining whether to enter into a changed licensing time-frames agreement:
 1. The complexity of the licensing subject matter. The Department shall not enter into an agreement if the presumptive substantive review time-frame is less than 30 days.
 2. The resources of the Department. The Department shall not enter into an agreement if the Department determines that either the negotiation of the agreement or the terms of the agreement are likely to require the Department to expend additional resources to the significant detriment of other applicants.
 3. The impact on public health and safety or the environment. The Department shall not enter into an agreement if the Department determines that the terms of the agreement are likely to cause a significant increase or change in the nature of the potential detrimental effects of the facility or activity to be governed by the license on public health and safety or the environment.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

R18-1-512. Reserved

R18-1-513. Repealed

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Section repealed by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

R18-1-514. Reserved

R18-1-515. Reserved

R18-1-516. Reassignment of License Category

- A. The Department may reassign an application to a different category if an evaluation of the application components indicates that a change is necessary in the category in which the application is classified. The Department shall notify the applicant of the change in the license category at which time the reassignment shall take effect. The Department notice shall

contain the Department's reason for making the reassignment to a different license category. After receiving Department notification, the applicant may submit an R18-1-521 notice of intent to rely on the license category in effect before Department notification.

- B. If a public hearing or public meeting is requested for an application for a license that requires the Department to hold a public hearing or public meeting on a proposed licensing decision if requested, the Department shall reassign the application from a license category not providing for a public hearing or public meeting to the companion category so providing.
- C. Reassignment may include a change from a standard to a companion complex category if such categories are shown on the license tables.
- D. Reassignment to a new license category under this Section means only that the time-frames for the application expire on the days shown for the new license category rather than the previous category.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

R18-1-517. Application Withdrawal

Withdrawal of an application causes all time-frames for that application to end.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

R18-1-518. Emergencies and Upset Conditions

- A. The Director may declare a moratorium on the starting of time-frames for new applications or may declare a suspension of all time-frames for one or more license categories identified on the license tables upon a determination that the starting of time-frames for new applications or the continued running of days within the time-frames on existing applications in that license category is likely to result in sanctions for those applications due to emergencies including:
 1. Diversion of Department resources to respond to pollution prevention emergency activity,
 2. Loss of use of premises,
 3. Computer failure, or
 4. Lack of access to a site inspection location due to weather or other natural conditions.
- B. A declaration of a time-frame moratorium or suspension under subsection (A) of this Section shall be in writing and shall include all the following:
 1. The reason for the time-frame moratorium or suspension.
 2. Identification of the license categories subject to the time-frame moratorium or suspension.
 3. If relevant, restriction of the declaration to one or more application review or site inspection locations.
 4. Expiration of the time-frame moratorium or suspension by a date certain.
- C. The Director may revoke declarations or issue successive declarations. The Director shall ensure that the duration of a time-frame moratorium or suspension under subsection (A) of the Section is limited to the shortest time necessary to address the emergency.
- D. A declaration of a time-frame moratorium or suspension under subsection (A) of this Section affects only the operation of the time-frames and does not prohibit the Department from acceptance or continued review of license applications.

- E. A declaration of a time-frame moratorium or suspension under subsection (A) of this Section applies only to applications and license categories that are subject to sanctions

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

R18-1-519. Public Hearings; Public Meetings; Public Notice Periods

The suspension or expiration of the substantive review time-frame does not invalidate public hearings, public meetings, or public notice periods required by law to occur before a decision by the Department to grant a license.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

R18-1-520. Notice of Intent to Rely on the Application Components as Submitted

- A. An applicant, instead of submitting some or all of the application components identified by the Department, may submit an R18-1-205 notice of intent to rely on the application components as submitted in response to either of the following:
 1. Receiving a notice of administrative deficiencies issued by the Department during the administrative completeness review time-frame.
 2. Receiving a comprehensive request for additional information or a supplemental request for additional information issued by the Department after the administrative completeness review time-frame.
- B. If the Department decides under R18-1-205 to rescind or modify the identification of the application component or components objected to by the applicant, the Department shall make the decision within 15 days after Department receipt of the applicant's R18-1-205 notice. If, at the time of the decision, the running of days within the time-frames is suspended:
 1. A decision to rescind the identification of all application components identified in the notice shall resume the running of days within the time-frames.
 2. A decision to rescind less than all or to modify the identification of one or more application components identified in the notice, shall allow the running of days within the time-frames to remain suspended in accordance with the Department notice identified in subsections (A)(1) or (A)(2) of this Section.
- C. If, within 15 days after Department receipt of the applicant's R18-1-205 notice, the Department has not notified the applicant of a decision to rescind or modify the identification of the application component or components complained of in the notice, the running of days within the time-frames, if suspended, shall resume.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

R18-1-521. Notice of Intent to Rely on the License Category

- A. Upon Department notification that the Department has changed the license category under R18-1-516, an applicant may submit a notice of intent to rely on the license category in effect before the Department notification.
- B. The applicant's notice under subsection (A) of this Section shall include all of the following:
 1. Identification of the applicant.
 2. Identification of the license application.

3. Identification of the date of the Department notice.
 4. A statement that the applicant intends to rely on the license category in effect before Department notification of the R18-1-516 license category change as the basis upon which the Department shall make a licensing decision.
- C.** Upon receipt of an applicant's notice under subsection (A) of this Section, the Department shall do one of the following:
1. Rescind the change under subsection (D) of this Section.
 2. Make a licensing decision under R18-1-507(A) and process the decision in the changed category identified under R18-1-516.
 3. Allow the license category to revert under subsection (E) of this Section.
- D.** If the Department decides to rescind the change in the license category, the Department shall notify the applicant of the decision within 15 days after Department receipt of the applicant's notice under subsection (A) of this Section and shall continue to process the application in the license category on which the applicant is relying.
- E.** If, within 15 days after Department receipt of the applicant's notice under subsection (A) of this Section, the Department has not notified the applicant of a decision under subsection (C) of this Section, the license category shall revert to the category in effect before the R18-1-516 Department notification with the same effect on the time-frames as described in subsection (D) of this Section.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
3343, effective August 13, 1999 (Supp. 99-3).

R18-1-522. Notice of Change of Applicant's Agent for Receiving Licensing Time-frames Notices

- A.** An applicant may change the designation of its agent identified under R18-1-503(A)(3) for receiving Department licensing time-frames notification.
- B.** To change the designation of the agent, the applicant shall submit a notice that complies with all the following to the application clerk:
1. Identification of the applicant.
 2. Identification of the application.
 3. Name and mailing address of the current agent authorized to receive all notices issued by the Department under this Article.
 4. Name and mailing address of the new agent authorized to receive all notices issued by the Department under this Article.
 5. Date when the applicant's authorization of the new agent will be effective.
 6. Certification by the applicant that the information given under this subsection is true.
- C.** Upon Department receipt of the applicant's notice under subsection (B) of this Section, the Department shall notify the applicant of the date of receipt. The effective date of the change of applicant's agent shall not be less than three days after Department receipt of the notice.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
3343, effective August 13, 1999 (Supp. 99-3).

R18-1-523. Refunds, Fee Excusals, and Penalties

- A.** An application is subject to sanctions under A.R.S. § 41-1077 only if the application is governed by this Article and requires a fee that is deposited in a Department fund. In addition, an application is subject to penalties under A.R.S. § 41-1077(B) only if it is subject to a substantive review time-frame as

indicated on the license tables. An application withdrawn before the expiration of the overall time-frame is not subject to sanctions.

- B.** The Department shall make a refund and fee excusal to an applicant for an application if the Department determines both of the following:
1. The overall time-frame for that application expired prior to Department notification of a licensing decision under R18-1-507(A).
 2. The applicant is the prospective licensee of the application.
- C.** The Department shall issue a refund and make a fee excusal within 15 days after the Department makes a determination that a refund and fee excusal is due.
- D.** A refund and fee excusal is limited to the specific application giving rise to the refund and fee excusal and does not include a refund or payment excusal for services requested by the applicant beyond the scope of the application. A refund is limited to the amount actually received from the applicant by the Department for the review of the specific application giving rise to the refund and does not include interest.
- E.** The Department shall pay to the state general fund a penalty for an application if the Department determines both of the following:
1. The overall time-frame for that application expired prior to Department notification of a licensing decision under R18-1-507(A)
 2. On the last calendar day of the month, the Department still has not made a licensing decision under R18-1-507(A).
- F.** If an application accumulates excused fees, the Department shall calculate the penalty each month to include both the penalty due for the current month plus any additional penalties now due for previous months resulting from the continued accumulation of excused fees during the current month.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
3343, effective August 13, 1999 (Supp. 99-3).

R18-1-524. Site Inspections

- A.** If a site inspection is a required application component for a license category, an applicant complies with the requirement to submit a site inspection application component if either of the following is met:
1. The applicant makes all necessary areas of a site available for inspection by the Department at a mutually agreed-upon time and for the period of time necessary for the Department to complete the site inspection.
 2. The Department determines that the conditions of a license are such that a site inspection will provide no additional required information in order for the Department to make a licensing decision under R18-1-507(A)(1) or R18-1-507(A)(2).
- B.** If made, a site inspection shall be performed under A.R.S. § 41-1009. The purpose of a site inspection application component is to allow the Department to identify what site specific facts may be determinative of required license conditions in order to make a licensing decision under R18-1-507(A)(1) or R18-1-507(A)(2).
- C.** The Department shall prepare an inspection report under A.R.S. § 41-1009(D) for every site inspection made. The inspection report shall state both of the following:
1. The Department's action resulting from the inspection is completed.
 2. Whether the applicant complied with subsection (A)(1) of this Section.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
3343, effective August 13, 1999 (Supp. 99-3).

R18-1-525. Licensing Time-frames; Application Components

The administrative completeness review time-frame days, the substantive review time-frame days, and the references to application components for each license category subject to this Article are shown on the license tables.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
3343, effective August 13, 1999 (Supp. 99-3).

Table 1. Class I Air Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group I: Individual Class I prevention of significant deterioration (PSD) licenses:				
1. Standard Class I PSD major source permit with no public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-406.	41	219	Yes	A.A.C. R18-2-304, R18-2-402, and R18-2-406, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
2. Standard Class I PSD major source permit with a public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-406.	41	251	Yes	A.A.C. R18-2-304, R18-2-402, and R18-2-406, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
3. Complex Class I PSD major source permit with no public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-406.	41	281	Yes	A.A.C. R18-2-304, R18-2-402, and R18-2-406, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
4. Complex Class I PSD major source permit with a public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-406.	41	313	Yes	A.A.C. R18-2-304, R18-2-402, and R18-2-406, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
Group II: Individual Class I major new source review (NSR) licenses:				
5. Standard Class I major NSR permit with no public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-403.	41	219	Yes	A.A.C. R18-2-304, R18-2-402, R18-2-403, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
6. Standard Class I major NSR permit with a public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-403.	41	251	Yes	A.A.C. R18-2-304, R18-2-402, R18-2-403, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
7. Complex Class I major NSR permit with no public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-403.	41	281	Yes	A.A.C. R18-2-304, R18-2-402, R18-2-403, Fee: R18-2-326, Department application form, site inspection, and initial fee required.

Table 1 (Continued). Class I Air Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

Group II (Continued): Individual Class I major new source review (NSR) licenses:

8. Complex Class I major NSR permit with a public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-403.	41	313	Yes	A.A.C. R18-2-304, R18-2-402, and R18-2-403, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
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Group III: Individual Class I other major source licenses:

9. Standard Class I other major source permit with no public hearing, A.R.S. § 49-426, A.A.C. R18-2-302.	41	344	Yes	A.A.C. R18-2-304, Fee: R18-2-326, Department application form, site inspection, and fee required.
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10. Standard Class I other major source permit with a public hearing, A.R.S. § 49-426, A.A.C. R18-2-302.	41	376	Yes	A.A.C. R18-2-304, Fee: R18-2-326, Department application form, site inspection, and fee required.
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11. Complex Class I other major source permit with no public hearing, A.R.S. § 49-426, A.A.C. R18-2-302.	41	406	Yes	A.A.C. R18-2-304, Fee: R18-2-326, Department application form, site inspection, and fee required.
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12. Complex Class I other major source permit with a public hearing, A.R.S. § 49-426, A.A.C. R18-2-302.	41	438	Yes	A.A.C. R18-2-304, Fee: R18-2-326, Department application form, site inspection, and fee required.
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Group IV: Individual Class I renewal licenses:

13. Standard Class I renewal permit with no public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-322.	41	344	No	A.A.C. R18-2-304 Department application form, site inspection, required.
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14. Standard Class I renewal permit with a public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-322.	41	376	No	A.A.C. R18-2-304 Department application form, site inspection, required.
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15. Complex Class I renewal permit with no public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and, R18-2-322.	41	406	No	A.A.C. R18-2-304 Department application form, site inspection, required.
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16. Complex Class I renewal permit with a public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-322.	41	438	No	A.A.C. R18-2-304 Department application form, site inspection, required.
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Table 1 (Continued), Class I Air Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group V: Individual Class I transfer, amendment, and revision licenses:				
17. Class I transfer, A.R.S. § 49-429, A.A.C. R18-2-302 and R18-2-323.	5	10	Yes	A.A.C. R18-2-323, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
18. Class I administrative amendment, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-318.	10	41	No	A.A.C. R18-2-318, Site inspection required.
19. Class I minor revision, A.R.S. §§ 49-426.01, A.A.C. R18-2-302 and R18-2-319.	41	103	Yes	A.A.C. R18-2-319, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
20. Standard Class I significant revision with no public hearing, A.R.S. §§ 49-426.01, A.A.C. R18-2-302 and R18-2-320.	41	344	Yes	A.A.C. R18-2-304, Fee: A.A.C. R18-2-326, Department application form, site inspection, and initial fee required
21. Standard Class I significant revision with a public hearing, A.R.S. §§ 49-426.01, A.A.C. R18-2-302 and R18-2-320.	41	376	Yes	A.A.C. R18-2-304, Fee: A.A.C. R18-2-326, Department application form, site inspection, and initial fee required
22. Complex Class I significant revision with no public hearing, A.R.S. §§ 49-426.01, A.A.C. R18-2-302 and R18-2-320.	41	406	Yes	A.A.C. R18-2-304, Fee: A.A.C. R18-2-326, Department application form, site inspection, and initial fee required
23. Complex Class I significant revision with a public hearing, A.R.S. §§ 49-426.01, A.A.C. R18-2-302 and R18-2-320.	41	438	Yes	A.A.C. R18-2-304, Fee: A.A.C. R18-2-326, Department application form, site inspection, and initial fee required.
Group VI: Authority to operate (ATO) under Class I general permit licenses:				
24. Class I general permit petition, A.R.S. § 49-426(H), A.A.C. R18-2-302 and R18-2-502(B).	21	61	No	A.A.C. R18-2-502(B).
25. Class I general coverage ATO new permit, A.R.S. § 49-426(H), A.A.C. R18-2-302 and R18-2-503.	21	103	Yes	A.A.C. R18-2-503, Fee: R18-2-511, Department application form, site inspection, and initial fee required.

Historical Note

Table 1 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

Table 2. Class II Air Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group I: Individual Class II new licenses:				
1. Standard Class II permit with no public hearing, A.R.S. § 49-426, A.A.C. R18-2-302.	41	240	Yes	A.A.C. R18-2-304, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
2. Standard Class II permit with a public hearing, A.R.S. § 49-426, A.A.C. R18-2-302.	41	272	Yes	A.A.C. R18-2-304, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
3. Complex Class II permit with no public hearing, A.R.S. § 49-426, A.A.C. R18-2-302.	41	302	Yes	A.A.C. R18-2-304, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
4. Complex Class II permit with a public hearing, A.R.S. § 49-426, A.A.C. R18-2-302.	41	334	Yes	A.A.C. R18-2-304, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
Group II: Individual Class II renewal licenses:				
5. Standard Class II renewal with no public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-322.	41	240	No	A.A.C. R18-2-304, Department application form and site inspection required.
6. Standard Class II renewal with a public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-322.	41	272	No	A.A.C. R18-2-304, Department application form and site inspection required.
7. Complex Class II renewal with no public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-322.	41	302	No	A.A.C. R18-2-304, Department application form and site inspection required.
8. Complex Class II renewal with a public hearing, A.R.S. § 49-426, A.A.C. R18-2-302 and R18-2-322.	41	334	No	A.A.C. R18-2-304, Department application form site inspection required.

Table 2 (Continued). Class II Air Licenses

Subject to A.R.S. § 41-1073-(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group III: Individual Class II transfer, amendment, and revision licenses:				
9. Class II transfer, A.R.S. § 49-429, A.A.C. R18-2-302, R18-2-323.	5	10	Yes	A.A.C. R18-2-323, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
10. Class II administrative amendment, A.R.S. § 49-426, A.A.C. R18-2-302, R18-2-318.	10	41	No	A.A.C. R18-2-318.
11. Class II minor revision, A.R.S. § 49-426.01, A.A.C. R18-2-302 and R18-2-319.	41	62	Yes	A.A.C. R18-2-319, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
12. Standard Class II significant revision with no public hearing, A.R.S. § 49-426.01, A.A.C. R18-2-302 and R18-2-320.	41	198	Yes	A.A.C. R18-2-304, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
13. Standard Class II significant revision with a public hearing, A.R.S. § 49-426.01, A.A.C. R18-2-302 and R18-2-320.	41	230	Yes	A.A.C. R18-2-304, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
14. Complex Class II significant revision with no public hearing, A.R.S. § 49-426.01, A.A.C. R18-2-302 and R18-2-320.	41	260	Yes	A.A.C. R18-2-304, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
15. Complex Class II significant revision with a public hearing, A.R.S. § 49-426.01, A.A.C. R18-2-302 and R18-2-320.	41	292	Yes	A.A.C. R18-2-304, Fee: R18-2-326, Department application form, site inspection, and initial fee required.
Group IV: Authority to operate (ATO) under general permit licenses.				
16. Class II general permit petition, A.R.S. § 49-426(H), A.A.C. R18-2-302 and R18-2-502(B).	21	61	No	A.A.C. R18-2-502(B).
17. Class II general coverage ATO new permit, A.R.S. § 49-426(H), A.A.C. R18-2-302 and R18-2-503.	21	103	Yes	A.A.C. R18-2-503, Fee: R18-2-511, Department application form, site inspection, and initial fee required.

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Table 2 (Continued). Class II Air Licenses**Subject to A.R.S. § 41-1073-(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group IV (Continued): Authority to operate (ATO) under general permit licenses.				
16. Class II general permit petition, A.R.S. § 49-426(H), A.A.C. R18-2-302 and R18-2-502(B).	21	61	No	A.A.C. R18-2-502(B).
17. Class II general coverage ATO new permit, A.R.S. § 49-426(H), A.A.C. R18-2-302 and R18-2-503.	21	103	Yes	A.A.C. R18-2-503, Fee: R18-2-511, Department application form, site inspection, and initial fee required.
18. Class II general coverage ATO renewal permit, A.R.S. § 49-426(H), A.A.C. R18-2-302 and R18-2-505.	21	103	Yes	A.A.C. R18-2-505, Fee: R18-2-511, Department application form, site inspection, and initial fee required.
19. Class II general coverage ATO variance, A.R.S. § 49-426(H), A.A.C. R18-2-507.	21	103	No	A.A.C. R18-2-507, Department application form and site inspection required.

Historical Note

Table 2 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

Table 3. Open Burning Licenses**Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
1. Dangerous material open burning permit, A.R.S. § 49-501, A.A.C. R18-2-602.	5	21	No	A.A.C. R18-2-602(D)(2), Department application form required.

Historical Note

Table 3 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 3-N. Repealed**Historical Note**

Table 3-N adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 3-S. Repealed

Historical Note

Table 3-S adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 4. Vehicle Emission Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
1. Fleet station permit, A.R.S. § 49-546, A.A.C. R18-2-1019, R18-2-1026.	15	21	No	A.A.C. R18-2-1019, Department application form required.
2. Emissions analyzer/opacity meter registration, A.R.S. §§ 49-542(J)(4) and 49-546(A)(2), A.A.C. R18-2-1027.	10	10	No	A.A.C. R18-2-1027, Department application form and site inspection required.

Historical Note

Table 4 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 5. Safe Drinking Water Construction Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group I: Drinking water approval-to-construct (ATC) licenses:				
1. Standard drinking water treatment facility, project, or well approval to construct, A.R.S. § 49-353, A.A.C. R18-5-505.	16	37	Yes	A.A.C. R18-5-505, Department application form and site inspection required.
2. Complex drinking water treatment facility, project, or well approval to construct, A.R.S. § 49-353, A.A.C. R18-5-505.	16	67	Yes	A.A.C. R18-5-505, Department application form and site inspection required.
3. Standard public and semi-public swimming pool design approval, A.R.S. § 49-104(B)(12).	26	26	Yes	A.A.C. R18-5-203, Department application form and site inspection required.
4. Complex public and semi-public swimming pool design approval, A.R.S. § 49-104(B)(12).	26	67	Yes	A.A.C. R18-5-203, Department application form and site inspection required.

**Table 5 (Continued): Safe Drinking Water Construction Licenses
Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group II: Drinking water approval-of-construction (AOC) licenses:				
5. Standard drinking water treatment facility, project, or well approval of construction, A.R.S. § 49-353, A.A.C. R18-5-507.	16	37	Yes	A.A.C. R18-5-507, Department application form and site inspection required.
6. Complex drinking water treatment facility, project, or well approval of construction, A.R.S. § 49-353, A.A.C. R18-5-507.	16	67	Yes	A.A.C. R18-5-507, Department application form and site inspection required.
7. Standard public and semi-public swimming pool approval of construction, A.R.S. § 49-104(B)(12).	26	26	Yes	A.A.C. R18-5-204, Department application form and site inspection required.
8. Complex public and semi-public swimming pool approval of construction, A.R.S. § 49-104(B)(12).	26	67	Yes	A.A.C. R18-5-204, Department application form and site inspection required.
Group III: Other licenses:				
9. Standard drinking water new source approval, A.R.S. § 49-353, A.A.C. R18-5-505.	16	37	Yes	A.A.C. R18-5-505, Department application form and site inspection required.
10. Complex drinking water new source approval, A.R.S. § 49-353, A.A.C. R18-5-505.	16	67	Yes	A.A.C. R18-5-505, Department application form and site inspection required.
11. Drinking water time extension approval, A.R.S. § 49-353, A.A.C. R18-5-505.	16	16	Yes	A.A.C. R18-5-505, Department application form required.

Historical Note

Table 5 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 5-N. Repealed

Historical Note

Table 5-N adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 5-S. Repealed

Historical Note

Table 5-S adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 6. Repealed

Historical Note

Table 6 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 9 A.A.R. 241, effective March 11, 2003 (Supp. 03-1).

Table 6-E. Repealed

Historical Note

Table 6-E adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 9 A.A.R. 241, effective March 11, 2003 (Supp. 03-1).

Table 6-N. Repealed

Historical Note

Table 6-N adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 9 A.A.R. 241, effective March 11, 2003 (Supp. 03-1).

Table 6-S. Repealed

Historical Note

Table 6-S adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 9 A.A.R. 241, effective March 11, 2003 (Supp. 03-1).

Table 7. Pesticide Contamination Prevention Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
1. New pesticide approval A.R.S. § 49-310 A.A.C. R18-6-102	62	124	No	A.A.C. R18-6-102
2. Active ingredient or pesticide criticality determination A.R.S. § 49-303 A.A.C. R18-6-103	21	41	No	A.A.C. R18-6-102
3. Pesticide addition or deletion to groundwater protection list approval A.R.S. § 49-305 A.A.C. R18-6-301	21	41	No	A.A.C. R18-6-301
4. Conditional pesticide registration A.R.S. § 49-310 A.A.C. R18-6-102(B)(2)	21	41	No	A.R.S. § 49-310

Historical Note

Table 7 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed; new Table made by final rulemaking at 9 A.A.R. 241, effective March 11, 2003 (Supp. 03-1). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 7-N. Repealed

Historical Note

Table 7-N adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 9 A.A.R. 241, effective March 11, 2003 (Supp. 03-1).

Table 7-S. Repealed

Historical Note

Table 7-S adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 9 A.A.R. 241, effective March 11, 2003 (Supp. 03-1).

**Table 8. Safe Drinking Water Monitoring and Treatment Licenses
Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group I: Safe drinking water monitoring, sample, and sample site change and waiver licenses:				
1. Monitoring frequency change approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-206(G)(1), R18-4-206(G)(2), R18-4-206(J), R18-4-206(K)(1), R18-4-206(K)(2), R18-4-207(H)(1), R18-4-207(H)(2), R18-4-208(E), R18-4-208(F), R18-4-209(G), R18-4-212(E), R18-4-212(F), R18-4-212(G)(1), R18-4-212(G)(2), R18-4-212(I)(3), R18-4-213(A), R18-4-214(F), R18-4-214.01(H), R18-4-214.01(L), R18-4-214.02(G), R18-4-214.02(K), R18-4-216(E), R18-4-216(G)(1), R18-4-216(G)(2), R18-4-216(H)(3), R18-4-217(D) R18-4-217(E), R18-4-217(F), R18-4- 310(D), R18-4-310(D)(2), R18-4-313(J), R18-4-313(K), R18-4-313(M)(1), R18-4-313(M)(2), R18-4-313(M)(3), R18-4-403(A)(1), R18-4-403(A)(2).	15	27	No	A.A.C. R18-4-206(G)(1), R18-4-206(G)(2), R18-4- 206(J), R18-4-206(K)(1), R18-4-206(K)(2), R18-4- 207(H)(1), R18-4-207(H)(2), R18-4-208(E), R18-4- 208(F), R18-4-209(G), R18-4-212(E), R18-4-212(F), R18-4-212(G)(1), R18-4-212(G)(2), R18-4-212(I)(3), R18-4-213(A), R18-4-214(F), R18-4-214.01(H), R18-4-214.01(L), R18-4-214.02(G), R18-4- 214.02(K), R18-4-216(E), R18-4-216(G)(1), R18-4- 216(G), R18-4-216(H)(3), R18-4-217(D), R18-4- 217(E), R18-4-217(F), R18-4-310(D), R18-4- 310(D)(2), R18-4-313(J), R18-4-313(K), R18-4- 313(M)(1), R18-4-313(M)(2), R18-4-313(M)(3), R18-4-403(A)(1), R18-4-403(A)(2). Department application form required.
2. Monitoring sample change approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-214(E), R18-4-214.02(F), R18-4-310(E), R18-4-313(J), R18-4-313(M)(1), R18-4-313(M)(2), R18-4-313(M)(3).	15	27	No	A.A.C. R18-4-214(E), R18-4-214.02(F), R18-4-310(E), R18-4-313(J), R18-4-313(M)(1), R18-4-313(M)(2), R18-4-313(M)(3). Department application form required.
3. Residual disinfectant concentration sampling interval approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-303(B)(2)(a).	15	15	No	A.A.C. R18-4-303, Department application form required.
4. Interim monitoring relief determination, A.R.S. § 49-359(B)(3).	21	41	No	A.R.S. § 49-359(B), Department application form required.
5. Man-made radioactivity environmental surveillance substitution approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-217(I)(3)(d).	21	62	No	A.A.C. R18-4-217(I)(3)(d), Department application form required.
6. Consecutive public water system monitoring require- ments modification approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-113.	21	84	No	A.A.C. R18-4-113, Department application form and site inspection required.
7. Trihalomethane source basis for sampling purposes approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-214(C).	21	167	No	A.A.C. R18-4-214, Department application form and site inspection required.

Table 8 (Continued). Safe Drinking Water Monitoring and Treatment Licenses**Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group I (Continued): Safe drinking water monitoring, sample, and sample site change and waiver licenses:				
8. Sodium multiple well sampling number reduction approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-401(B).	21	167	No	A.A.C. R18-4-401, Department application form and site inspection required.
9. Turbidity monitoring frequency reduction approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-302(H).	21	167	No	A.A.C. R18-4-302, Department application form and site inspection required.
10. Monitoring waiver approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-206(L), R18-4-207(K), R18-4-212(K)(1), R18-4-212(K)(2), R18-4-212(K)(3), R18-4-212(K)(4), R18-4-216(M)(1), R18-4-216(M)(2), R18-4-217(F).	21	105	No	A.A.C. R18-4-206(L), R18-4-207(K), R18-4-212(K)(1), R18-4-212(K)(2), R18-4-212(K)(3), R18-4-212(K)(4), R18-4-216(M)(1), R18-4-216(M)(2), R18-4-217(F), Department application form required.
Group II: Safe drinking water variance and exemption licenses:				
11. Maximum contaminant level or treatment technique requirement variance with no public hearing, A.R.S. § 49-353(A)(2), A.A.C. R18-4-110.	21	105	No	A.A.C. R18-4-110, Department application form and site inspection required.
12. Maximum contaminant level or treatment technique requirement variance with a public hearing, A.R.S. § 49-353(A)(2), A.A.C. R18-4-110.	21	187	No	A.A.C. R18-4-110, Department application form and site inspection required.
13. Maximum contaminant level or treatment technique requirement exemption with no public hearing, A.R.S. § 49-353(A)(2), A.A.C. R18-4-111.	21	105	No	A.A.C. R18-4-111, Department application form and site inspection required.
14. Maximum contaminant level or treatment technique requirement exemption with a public hearing, A.R.S. § 49-353(A)(2), A.A.C. R18-4-111.	21	187	No	A.A.C. R18-4-111, Department application form and site inspection required.
15. Maximum contaminant level or treatment technique requirement compliance extension approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-111(C).	21	32	No	A.A.C. R18-4-111, Department application form and site inspection required.
16. Maximum contaminant level or treatment technique requirement compliance additional extension approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-111(C).	21	42	No	A.A.C. R18-4-111, Department application form and site inspection required.

Table 8 (Continued). Safe Drinking Water Monitoring and Treatment Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group II (Continued): Safe drinking water variance and exemption licenses:				
17. Safe drinking water requirement exclusion approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-112(A).	21	42	No	A.A.C. R18-4-112(B), Department application form and site inspection required.
18. Backflow-prevention assembly third-party certifying entity designation approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-115(D)(2).	21	105	No	A.A.C. R18-4-115, Department application form and site inspection required.
Group III: Safe drinking water treatment and monitoring plan licenses:				
19. Maximum contaminant level compliance blending plan approval (for 10 or fewer points-of-entry), A.R.S. § 49-353(A)(2), R18-4-221(A).	21	42	No	A.A.C. R18-4-221, Department application form and site inspection required.
20. Maximum contaminant level compliance blending plan approval (for more than 10 points-of-entry), A.R.S. § 49-353(A)(2), R18-4-221(A).	21	84	No	A.A.C. R18-4-221, Department application form and site inspection required.
21. Maximum contaminant level compliance blending plan change approval (for 10 or fewer points-of-entry), A.R.S. § 49-353(A)(2), R18-4-221(B).	21	42	No	A.A.C. R18-4-221, Department application form and site inspection required.
22. Maximum contaminant level compliance blending plan change approval (for more than 10 points-of-entry), A.R.S. § 49-353(A)(2), R18-4-221(B).	21	84	No	A.A.C. R18-4-221, Department application form and site inspection required.
23. Maximum contaminant level compliance at subsequent downstream service connections monitoring plan approval, A.R.S. § 49-353(A)(2), R18-4-221(A)(2).	21	125	No	A.A.C. R18-4-221, Department application form and site inspection required.
24. Point-of-entry treatment device monitoring plan approval, A.R.S. § 49-353(A)(2), R18-4-222(B)(1).	15	15	No	A.A.C. R18-4-222, Department application form and site inspection required.
25. Point-of-entry treatment device design approval, A.R.S. § 49-353(A)(2), R18-4-222(B)(2).	21	167	No	A.A.C. R18-4-222, Department application form and site inspection required.

Table 8 (Continued). Safe Drinking Water Monitoring and Treatment Licenses**Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACR TF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group III (Continued): Safe drinking water treatment and monitoring plan licenses:				
26. Lead and copper source water treatment determination modification, A.R.S. § 49-353(A)(2), A.A.C. R18-4-313(P), R18-4-313(Q).	21	167	No	A.A.C. R18-4-313, Department application form and site inspection required.
27. Lead and copper source water concentration determination modification, A.R.S. § 49-353(A)(2), A.A.C. R18-4-314(N).	21	167	No	A.A.C. R18-4-314, Department application form and site inspection required.
28. Lead service line extent under system control determination approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-315(D).	21	105	No	A.A.C. R18-4-315, Department application form and site inspection required.
29. Lead service line extent under system control rebuttable presumption determination approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-315(E).	21	105	No	A.A.C. R18-4-315, Department application form and site inspection required.
Group IV: Lead and copper corrosion control licenses:				
30. Lead and copper optimal corrosion control treatment approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-313(A).	42	502	No	A.A.C. R18-4-313, Department application form and site inspection required.
31. Large water system lead and copper corrosion control activities equivalency demonstration approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-307(B).	42	502	No	A.A.C. R18-4-307, Department application form and site inspection required.
32. Small and medium water system lead and copper corrosion control activities equivalency demonstration approval, A.R.S. § 49-353(A)(2), A.A.C. R18-4-307(B).	21	502	No	A.A.C. R18-4-307, Department application form and site inspection required.
33. Lead and copper optimal corrosion treatment determination modification, A.R.S. § 49-353(A)(2), A.A.C. R18-4-313(P), R18-4-313(Q).	42	376	No	A.A.C. R18-4-313, Department application form and site inspection required.

Table 8 (Continued). Safe Drinking Water Monitoring and Treatment Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR	SR	Subject	Application Components
	TF	TF	to	
	Days	Days	Sanctions	

Group IV (Continued): Lead and copper corrosion control licenses:

34. Lead and copper water quality control parameters determination modification, A.R.S. § 49-353(A)(2), A.A.C. R18-4-313(P), R18-4-313(Q).	42	376	No	A.A.C. R18-4-313, Department application form and site inspection required.
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Historical Note

Table 8 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 9. Repealed

Historical Note

Table 9 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 10. Water Permit Licensing Time-frames (Business Days)

Permits	Authority	Administrative Completeness Review	Substantive Review		Overall Time-frame	
AQUIFER PROTECTION PERMITS						
Individual Permit No public hearing Public hearing	A.R.S. §§ 49-203, 49-242	35			186	221
	18 A.A.C. 9, Article 2	35			231 ¹	266
Complex Individual Permit No public hearing Public hearing	A.R.S. §§ 49-203, 49-242	35			249	284
	18 A.A.C. 9, Article 2	35			294 ¹	329
Individual Permit Significant Amendment No public hearing Public hearing	A.R.S. §§ 49-203, 49-242	35			186	221
	18 A.A.C. 9, Article 2	35			231 ¹	266
Complex Individual Permit Significant Amendment No public hearing Public hearing	A.R.S. §§ 49-203, 49-242	35			249	284
	18 A.A.C. 9, Article 2	35			294 ¹	329
Individual Permit Other Amendment	A.R.S. §§ 49-203, 49-242 18 A.A.C. 9, Article 2	35			100	135
Temporary Individual Permit	A.R.S. §§ 49-203, 49-242 18 A.A.C. 9, Article 2	35			145	180
Type 3 General Permit	A.R.S. § 49-245 A.A.C. R18-9-D301 through R18-9-D307	21			60	81

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4.01 General Permit 300 services or less	A.R.S. § 49-245 A.A.C. R18-9-E301	42			53	95 ²
		42			94	136 ²
Standard Single 4.02, 4.03, 4.13, 4.14, 4.15, and 4.16 General Permits	A.R.S. § 49-245 A.A.C. R18-9-E302, R18-9-E303, R18-9-E313, R18-9-E314	42			31	73 ²
4.23 General Permit	A.R.S. § 49-245 A.A.C. R18-9-E323	42			94	136 ²
Standard Combined Two or three Type 4 General Permits	A.R.S. § 49-245 A.A.C. R18-9-E302 through R18-9-E323	42			53	95 ²
Complex Combined Four or more Type 4 General Permits	A.R.S. § 49-245 A.A.C. R18-9-E302 through R18-9-E323	42			94	136 ²
SUBDIVISION APPROVALS						
Subdivision Individual facilities	A.R.S. § 49- 104(B)(11) A.A.C. R18-5-408	21			46	67
Subdivision Community facilities	A.R.S. § 49- 104(B)(11) A.A.C. R18-5-403	21			37	58
RECLAIMED WATER PERMITS						
Individual Permit No public hearing Public hearing	A.R.S. § 49-203 A.A.C. R18-9-702 through R18-9-707	35			186	221
		35			231 ¹	266
Complex Individual Permit No public hearing Public hearing	A.R.S. § 49-203 A.A.C. R18-9-702 through A.A.C. R18-9-707	35			249	284
		35			294 ¹	329
Type 3 General Permit	A.R.S. § 49-203 A.A.C. R18-9-717, R18-9-718, R18-9-719	21			60	81
ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM (AZPDES) PERMITS						
Individual Permit Major Facility ⁵ No public hearing Public hearing	A.R.S. § 49-255.01 18 A.A.C. 9, Article 9, Part B	35			249	284 ^{3,4}
		35			294 ¹	329 ^{3,4}
Individual Permit Minor Facility ⁶ No public hearing Public hearing	A.R.S. § 49-255.01 18 A.A.C. 9, Article 9, Part B	35			186	221 ^{3,4}
		35			231 ¹	266 ^{3,4}
Individual Permit Stormwater / Construction Activities No public hearing Public hearing	A.R.S. § 49-255.01 18 A.A.C. 9, Article 9, Part B	35			126	161
		35			171 ¹	206 ^{3,4}
Individual Permit Major Modification No public hearing Public hearing	A.R.S. § 49-255.01 18 A.A.C. 9, Article 9, Part B	35			186	221 ^{3,4}
		35			231 ¹	266 ^{3,4}
LAND APPLICATION OF BIOSOLIDS REGISTRATIONS						

Biosolid Applicator Registration Request Acknowledgment	A.R.S. § 49-255.03 A.A.C. R18-9-1004	15			0	15
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¹ A request for a public hearing allows the Department 60 days to publish the notice of public hearing and for the official comment period. Forty-five business days are added to the substantive review time-frame.

² Each request for an alternative design, installation, or operational feature under R18-9-A312(G) to a Type 4 General Permit adds eight business days to the substantive review time-frame.

³ EPA reserves the right, under 40 CFR 123.44, to take 90 days to supply specific grounds for objection to a draft or proposed permit when a general objection is filed within the review period. The first 30 days run concurrently with the Department’s official comment period. Forty-five business days will be added to the substantive review time-frame to allow for the EPA review.

⁴ If a request for a variance is submitted to the Department, 40 CFR 124.62 requires that specific variances are subject to review by EPA. Under 40 CFR 123.44, EPA reserves the right to take 90-days to approve or deny the variance. Sixty-four business days will be added to the substantive review time-frame to allow for the EPA review.

⁵ “Major facility” means any NPDES “facility or activity” classified as such by the EPA in conjunction with the Director.

⁶ “Minor facility” means any facility that is not classified as a major facility.

Historical Note

Table 10 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed; new Table made by final rulemaking at 9 A.A.R. 241, effective March 11, 2003 (Supp. 03-1). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 11. Surface Water Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
Group I: Clean Water Act (CWA) § 401 certification licenses:				
1. CWA § 401 state certification of a proposed CWA § 404 permit, A.R.S. § 49-202.	21	42	No	A.R.S. § 49-202, 33 U.S.C. § 1341(a), Public notice of underlying proposed permit and Department application form required.

Historical Note

Table 11 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 12. Solid Waste Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
Group I: Solid waste variance licenses:				
1. Rule or standard variance request, A.R.S. § 49-763.01.	21	41	No	A.R.S. § 49-763.01, Department application form required.
Group II: Nonlandfill solid waste facility individual discharging aquifer protection (AP) licenses:				
2. Standard nonlandfill solid waste discharging facility AP new permit with no public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	186	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
3. Standard nonlandfill solid waste discharging facility AP new permit with a public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	232	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
4. Complex nonlandfill solid waste discharging facility AP new permit with no public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	249	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
5. Complex nonlandfill solid waste discharging facility AP new permit with a public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	295	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
6. Standard nonlandfill solid waste discharging facility AP permit significant amendment with no public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	186	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
7. Standard nonlandfill solid waste discharging facility AP permit significant amendment with a public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	232	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
8. Complex nonlandfill solid waste discharging facility AP permit significant amendment with no public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	249	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
9. Complex nonlandfill solid waste discharging facility AP permit significant amendment with a public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	295	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.

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10. Standard nonlandfill solid waste discharging facility AP permit other amendment, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	186	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form and initial fee required.
11. Complex nonlandfill solid waste discharging facility AP permit other amendment, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	249	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
12. Nonlandfill solid waste discharging facility AP permit transfer approval, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	21	32	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form and initial fee required.
13. Nonlandfill solid waste discharging facility AP closure plan approval, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	21	41	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
14. Standard nonlandfill solid waste discharging facility AP post-closure plan approval, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	21	41	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
15. Complex nonlandfill solid waste discharging facility AP post-closure plan approval, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	21	125	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.

Historical Note

Table 12 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table amended by final rulemaking at 9 A.A.R. 241, effective March 11, 2003 (Supp. 03-1).

Table 13. Special Waste Licenses**Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
Group I: Special waste licenses:				
1. Waste from shredding motor vehicles alternative sampling plan approval, A.R.S. §§ 49-762 and 49-857, A.A.C. R18-13-1307(A).	5	5	No	A.A.C. R18-13-1307(A).
2. Petroleum contaminated soil temporary treatment facility approval, A.A.C. R18-13-1610(B).	32	62	No	A.A.C. R18-13-1610(B).
Group II: Special waste facility plan licenses:				
3. Existing special waste facility plan approval, A.R.S. § 49-762.03(A)(2).	32	124	Yes	A.A.C. R18-13-1601 through R18-13-1614, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
4. New special waste facility plan approval with no public hearing, A.R.S. §§ 49-762.03(A)(1), 49-857, and 49-857.01.	32	62	Yes	A.A.C. R18-13-1601 through R18-13-1614, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
5. New special waste facility plan approval with a public hearing, A.R.S. §§ 49-762.03(A)(1), 49-857, and 49-857.01.	32	124	Yes	A.A.C. R18-13-1601 through R18-13-1614, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
Group III: Special waste facility amendment licenses:				
6. Special waste facility plan type III substantial change, A.R.S. §§ 49-762.06(B), 49-857, and 49-857.01.	21	41	Yes	A.A.C. R18-13-1601 through R18-13-1614, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
7. Special waste facility plan type IV substantial change with no public hearing, A.R.S. § 49-762.06(B).	21	41	Yes	A.A.C. R18-13-1601 through R18-13-1614, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
8. Special waste facility plan type IV substantial change with a public hearing, A.R.S. §§ 49-762.06(B), 49-857, and 49-857.01.	21	62	Yes	A.A.C. R18-13-1601 through R18-13-1614, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.

Historical Note

Table 13 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 14. Landfill Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
Group I: Municipal solid waste landfill facility plan licenses:				
1. Existing solid waste facility plan approval (landfill), A.R.S. §§ 49-761(B), 49-762, 49-762.03, and 49-762.04.	32	124	Yes	40 CFR § 257, 40 CFR § 258, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
2. New solid waste facility plan approval with no public hearing (landfill), A.R.S. §§ 49-761(B), 49-762, 49-762.03, and 49-762.04.	32	62	Yes	40 CFR § 257, 40 CFR § 258, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
3. New solid waste facility plan approval with a public hearing (municipal solid waste landfill), A.R.S. §§ 49-761(B), 49-762, 49-762.03, and 49-762.04.	32	124	Yes	40 CFR § 257, 40 CFR § 258, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
4. New municipal solid waste landfill operation temporary authorization, A.R.S. § 49-762.03(C).	21	41	No	A.R.S. § 49-762.03(C).
Group II: Solid waste landfill facility amendment licenses:				
5. Solid waste facility plan type III substantial change (municipal solid waste landfill) with no public hearing, A.R.S. § 49-762.06(B).	21	41	Yes	40 CFR § 258, Fee: R18-13-701 through R18-13-703, Department application, site inspection, form required.
6. Solid waste facility plan type III substantial change (municipal solid waste landfill) with a public hearing, A.R.S. § 49-762.06(B).	21	62	Yes	40 CFR § 258, Fee: R18-13-701 through R18-13-703, Department application, site inspection, form required.
7. Solid waste facility plan type IV substantial change (municipal solid wasteland fill) with no public hearing, A.R.S. § 49-762.06(B).	21	41	Yes	40 CFR § 258, Fee: R18-13-701 through R18-13-703, Department application, site inspection, form required.
8. Solid waste facility plan type IV substantial change (municipal solid waste landfill) with a public hearing, A.R.S. § 49-762.06(B).	21	62	Yes	40 CFR § 258, Fee: R18-13-701 through R18-13-703, Department application, site inspection, form required.
Group III: Non-municipal solid waste landfill facility individual discharging aquifer protection (AP) licenses:				
9. Standard non-municipal solid waste landfill discharging facility AP new permit with no public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	186	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
10. Standard non-municipal solid waste landfill discharging facility AP new permit with a public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	232	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.

Table 14 (Continued). Landfill Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
Group III (Continued): Non-municipal solid waste landfill facility individual discharging aquifer protection (AP) licenses:				
11. Complex non-municipal solid waste landfill discharging facility AP new permit with no public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	249	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
12. Complex non-municipal solid waste landfill discharging facility AP new permit with a public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	295	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
13. Standard non-municipal solid waste landfill discharging facility AP permit significant amendment with no public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	186	Yes	A.A.C. A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
14. Standard non-municipal solid waste landfill discharging facility AP permit significant amendment with a public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	232	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
15. Complex non-municipal solid waste landfill discharging facility AP permit significant amendment with no public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	249	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
16. Complex non-municipal solid waste landfill discharging facility AP permit significant amendment with a public hearing, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	295	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
17. Standard non-municipal solid waste landfill discharging facility AP permit other amendment, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	186	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
18. Complex non-municipal solid waste landfill discharging facility AP permit other amendment, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	35	249	Yes	A.A.C. R18-9-A201 through R18-9-A213, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.
19. Non-municipal solid waste landfill discharging facility AP permit transfer approval, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	21	32	Yes	A.A.C. R18-9-121(E), Fee: R18-14-101 through R18-14-107, Department application form and initial fee required.
20. Non-municipal solid waste landfill discharging facility AP closure plan approval, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	21	41	Yes	A.A.C. R18-9-116, Fee: R18-14-101 through R18-14-107, Department application form, site inspection, and initial fee required.

Table 14 (Continued). Landfill Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
Group III (Continued): Non-municipal solid waste landfill facility individual discharging aquifer protection (AP) licenses:				
21. Standard non-municipal solid waste landfill discharging facility AP post-closure plan approval, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	21	41	Yes	A.A.C. R18-9-116, Fee: R18-14-101 through R18-14-107, Department application form required.
22. Complex non-municipal solid waste landfill discharging facility AP post-closure plan approval, A.R.S. §§ 49-241 through 49-251, A.A.C. R18-9-101 through R18-9-A213.	21	125	Yes	A.A.C. R18-9-116, Fee: R18-14-101 through R18-14-107, Department application form required.

Historical Note

Table 14 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 15. Biohazardous Medical Waste Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-Frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
1. Biohazardous medical waste plan approval of storage, treatment, or disposal facility with no public hearing. A.R.S. § 49-762.04, A.A.C. R18-13-1410(A)	32	62	Yes	A.A.C. R18-13-1410, R18-13-1411, and R18-13-1412, Fee: R18-13-701 through R18-13-703. Initial fee required.
2. Biohazardous medical waste plan approval of storage, treatment, or disposal facility with a public hearing. A.R.S. § 49-762.04, A.A.C. R18-13-1410(A)	32	124	Yes	A.A.C. R18-13-1410, R18-13-1411, and R18-13-1412, Fee: R18-13-701 through R18-13-703. Initial fee required.
3. Biohazardous medical waste transporter registration. A.R.S. § 49-761, A.A.C. R18-13-1409	32	0	No	A.A.C. R18-13-1409, Department application form required.
4. Biohazardous medical waste facility plan amendment type III substantial change. A.R.S. § 49-762.06, A.A.C. R18-13-1413	21	41	Yes	A.A.C. R18-13-1413, Fee: R18-13-701 through R18-13-703. Initial fee required.
5. Biohazardous medical waste facility plan amendment type IV substantial change with no public hearing. A.R.S. § 49-762.06, A.A.C. R18-13-1413	21	41	Yes	A.A.C. R18-13-1413, Fee: R18-13-701 through R18-13-703. Initial fee required.
6. Biohazardous medical waste facility plan amendment type IV substantial change with a public hearing. A.R.S. § 49-762.06, A.A.C. R18-13-1413	21	62	Yes	A.A.C. R18-13-1413, Fee: R18-13-701 through R18-13-703. Initial fee required.

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7. Biohazardous medical waste plan alternative treatment registration and approval. A.R.S. § 49-761, A.A.C. R18-13-1414 32 62 No A.A.C. R18-13-1414, Department application form required.

Historical Note

Table 15 made by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 16. Waste Tire, Lead Acid Battery, and Used Oil Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
Group I: Waste tire licenses:				
1. Waste tire collection site registration, A.R.S. § 44-1303.	11	21	No	A.R.S. § 44-1303, Department application form required.
2. Mining off-road waste tire collection facility license, A.R.S. § 44-1304, A.A.C. R18-13-1206.	32	62	No	A.R.S. § 44-1304.
Group II: Lead acid battery licenses:				
3. Lead battery collection or recycling facility authorization, A.R.S. § 44-1322(C).	32	62	No	A.R.S. § 44-1322(C), Department application form required.
Group III: Used oil licenses:				
4. Used oil collection center registration number, A.R.S. § 49-802(C)(1).	11	21	No	A.R.S. § 49-802(C)(1).

Historical Note

Table 16 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 17. Hazardous Waste Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
Group I: Resource Conservation and Recovery Act (RCRA) new and renewal licenses:				
1. Hazardous waste container or tank permit with no public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	251	Yes	40 CFR §§ 270.10-270.16, and 270.27, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
2. Hazardous waste container or tank permit with a public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	293	Yes	40 CFR §§ 270.10-270.16, and 270.27, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
3. Hazardous waste surface impoundment permit with no public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	376	Yes	40 CFR §§ 270.10-270.14, 270.17, and 270.27, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
4. Hazardous waste surface impoundment permit with a public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	418	Yes	40 CFR §§ 270.10-270.14, 270.17, and 270.27, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
5. Hazardous waste pile permit with no public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	376	Yes	40 CFR §§ 270.10-270.14, and 270.18, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
6. Hazardous waste pile permit with a public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	418	Yes	40 CFR §§ 270.10-270.14, and 270.18, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
7. Hazardous waste incinerator or burning boiler and industrial furnace (BIF) permit with no public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	502	Yes	40 CFR §§ 270.10-270.14, 270.19, 270.22, 270.62, and 270.66, Fee: A.A.C. R18-8-270(G), EPA 8700-23, Department application form, site inspection, and initial fee required.
8. Hazardous waste incinerator or burning boiler and industrial furnace (BIF) permit with a public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	544	Yes	40 CFR §§ 270.10-270.14, 270.19, 270.22, 270.62, and 270.66, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
9. Hazardous waste land treatment permit with no public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	376	Yes	40 CFR §§ 270.10-270.14, and 270.20, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
10. Hazardous waste land treatment permit with a public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	418	Yes	40 CFR §§ 270.10-270.14, and 270.20, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
11. Hazardous waste landfill facility permit with no public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	502	Yes	40 CFR §§ 270.10-270.14, and 270.21, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.

Table 17 (Continued). Hazardous Waste Licenses**Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
Group I (Continued): Resource Conservation and Recovery Act (RCRA) new and renewal licenses:				
12. Hazardous waste landfill facility permit with a public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	544	Yes	40 CFR §§ 270.10-270.14, and 270.21, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
13. Hazardous waste miscellaneous unit permit with no public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	376	Yes	40 CFR §§ 270.10-270.14, and 270.23, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
14. Hazardous waste miscellaneous unit permit with a public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	418	Yes	40 CFR §§ 270.10-270.14, and 270.23, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
15. Hazardous waste drip pad permit with no public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	376	Yes	40 CFR §§ 270.10-270.14, 270.26, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
16. Hazardous waste drip pad permit with a public hearing, A.R.S. § 49-922, A.A.C. R18-8-270.	84	418	Yes	40 CFR §§ 270.10-270.14, 270.26, EPA 8700-23, Department application form, site inspection, and initial fee required.
17. Hazardous waste emergency permit, A.R.S. § 49-922, A.A.C. R18-8-270.	10	84	Yes	40 CFR § 270.61, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form and site inspection required.
18. Hazardous waste land treatment demonstration using field test or laboratory analysis permit, A.R.S. § 49-922, A.A.C. R18-8-270.	84	376	Yes	40 CFR § 270.63, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
19. Hazardous waste research, development, and demonstration permit, A.R.S. § 49-922, A.A.C. R18-8-270(Q).	84	376	Yes	40 CFR § 270.65, EPA 8700-23, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
20. Hazardous waste temporary authorization request approval, A.R.S. § 49-922, A.A.C. R18-8-270.	84	84	No	40 CFR § 270.42(e), EPA 8700-23, Department application form and site inspection required.
Group II: Resource Conservation and Recovery Act (RCRA) modification licenses:				
21. Hazardous waste permit transfer approval, A.R.S. § 49-922, A.A.C. R18-8-270.	84	125	Yes	40 CFR § 270.40, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
22. Hazardous waste Class 1 permit modification, A.R.S. § 49-922, A.A.C. R18-8-270.	84	125	Yes	40 CFR § 270.42(a), Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.

Table 17 (Continued). Hazardous Waste Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
Group II (Continued): Resource Conservation and Recovery Act (RCRA) modification licenses:				
23. Hazardous waste Class 2 permit modification, A.R.S. § 49-922, A.A.C. R18-8-270.	84	376	Yes	40 CFR § 270.42(b), Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
24. Hazardous waste Class 3 incinerator, BIF, or landfill permit modification, A.R.S. § 49-922, A.A.C. R18-8-270.	84	502	Yes	40 CFR § 270.42(c), Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
25. Hazardous waste Class 3 other permit modification, A.R.S. § 49-922, A.A.C. R18-8-270.	84	376	Yes	40 CFR § 270.42(c), Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
26. Hazardous waste permit modification classification request, A.R.S. § 49-922, A.A.C. R18-8-270.	84	125	Yes	40 CFR § 270.42(d), Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.
Group III: Hazardous waste closure plan licenses:				
27. Hazardous waste interim status facility partial closure plan approval, A.R.S. § 49-922.	84	95	Yes	40 CFR §§ 264 Subpart G and 265 Subpart G, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required
28. Hazardous waste interim status facility final closure plan approval, A.R.S. § 49-922.	84	95	Yes	40 CFR §§ 264 Subpart G and 265 Subpart G, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required
29. Hazardous waste post-closure permit with no public hearing, A.R.S. § 49-922.	84	376	Yes	40 CFR § 270.1(c), 40 CFR § 270.28 Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required
30. Hazardous waste post-closure permit with a public hearing, A.R.S. § 49-922.	84	418	Yes	40 CFR § 270.1(c), 40 CFR § 270.28 Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required
31. Hazardous waste remedial action plan approval, A.R.S. § 49-922.	84	251	Yes	40 CFR § 270.68, 40 CFR § 270, Subpart H, Fee: A.A.C. R18-8-270(G), Department application form, site inspection, and initial fee required.

Historical Note

Table 17 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 18. Underground Storage Tank Licenses**Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
Group I: Underground Storage Tank (UST) technical requirement license.				
1. UST temporary closure extension request approval, A.R.S. § 49-1008, A.A.C. R18-12-270.	42	84	No	A.A.C. R18-12-270(F)-(G), Department application form required.
Group II: Underground Storage Tank (UST) service provider licenses.				
2. UST installation and retrofit service provider certification, A.R.S. § 49-1082, A.A.C. R18-12-803(1).	11	11	No	A.A.C. R18-12-806, Department application form required.
3. UST tightness testing service provider certification, A.R.S. § 49-1082, A.A.C. R18-12-803(2).	11	11	No	A.A.C. R18-12-806, Department application form required.
4. UST cathodic protection testing service provider certification, A.R.S. § 49-1082, A.A.C. R18-12-803(3).	11	11	No	A.A.C. R18-12-806, Department application form required.
5. UST decommissioning service provider certification, A.R.S. § 49-1082, A.A.C. R18-12-803(4).	11	11	No	A.A.C. R18-12-806, Department application form required.
6. UST interior lining service provider certification, A.R.S. § 49-1082, A.A.C. R18-12-803(5).	11	11	No	A.A.C. R18-12-806, Department application form required.

Historical Note

Table 18 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 19. Repealed**Historical Note**

Table 19 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 19-S. Repealed**Historical Note**

Table 19-S adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table repealed by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 20. Voluntary Program Remediation Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
Group I: Voluntary program greenfields remediation license:				
1. Voluntary program greenfields notice-to-proceed (NTP) approval, A.R.S. § 49-154(C).	5	5	No	A.R.S. § 49-154(C), Department application form required.
Group II: Voluntary program brownfields remediation license:				
2. Voluntary program brownfields certification, Governor letter to EPA of August 29, 1997, concerning the “designation of the Arizona Department of Environmental Quality as A State Environmental Agency pursuant to Section 198(c)(1)(C)” of the federal Taxpayer Relief Act of 1997.	21	21	No	Section 198(c) of the Taxpayer Relief Act of 1997; 26 U.S.C. 198(c), Department application form required.

Historical Note

Table 20 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3). Table amended by final rulemaking at 13 A.A.R. 1854, effective June 30, 2007 (Supp. 07-2).

Table 21. Pollution Prevention Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
1. State agency hazardous waste generation level pre-approval, A.R.S. § 49-972(C).	63	63	No	A.R.S. § 49-972(E).

Historical Note

Table 21 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

Table 22. Multi-Program Licenses

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame.

SRTF means Substantive Review Time-frame.

Day means business day.

License Category	ACRTF Days	SRTF Days	Subject to Sanctions	Application Components
1. Airport construction & expansion certificate (air & water), A.R.S. § 49-104.	21	42	No	49 U.S.C. § 2208(7)(A).

Historical Note

Table 22 adopted by final rulemaking at 5 A.A.R. 3343, effective August 13, 1999 (Supp. 99-3).

41-1003. Required rule making

Each agency shall make rules of practice setting forth the nature and requirements of all formal procedures available to the public.

49-104. Powers and duties of the department and director

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.
2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.
3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.
4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.
5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.
6. Promote and coordinate the management of air resources to ensure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.
7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.
8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.
9. Ensure the preservation and enhancement of natural beauty and man-made scenic qualities.
10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.
11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. Beginning in 2014, the department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.
12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.
13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.

14. Assist the department of health services in recruiting and training state, local and district health department personnel.

15. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

16. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

17. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that addresses the same subject matter. This paragraph shall not be construed to adversely affect standards adopted by an Indian tribe under federal law.

18. Provide administrative and staff support for the oil and gas conservation commission.

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.

2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.

3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.

41-1092. [Definitions](#)

In this article, unless the context otherwise requires:

1. "Administrative law judge" means an individual or an agency head, board or commission that sits as an administrative law judge, that conducts administrative hearings in a contested case or an appealable agency action and that makes decisions regarding the contested case or appealable agency action.

2. "Administrative law judge decision" means the findings of fact, conclusions of law and recommendations or decisions issued by an administrative law judge.

3. "Appealable agency action" means an action that determines the legal rights, duties or privileges of a party and that is not a contested case. Appealable agency actions do not include interim orders by self-supporting regulatory boards, rules, orders, standards or statements of policy of general application issued by an administrative agency to implement, interpret or make specific the legislation enforced or administered by it or clarifications of interpretation, nor does it mean or include rules concerning the internal management of the agency that do not affect private rights or interests. For the purposes of this paragraph, administrative hearing

does not include a public hearing held for the purpose of receiving public comment on a proposed agency action.

4. "Director" means the director of the office of administrative hearings.

5. "Final administrative decision" means a decision by an agency that is subject to judicial review pursuant to title 12, chapter 7, article 6.

6. "Office" means the office of administrative hearings.

7. "Self-supporting regulatory board" means any one of the following:

(a) The Arizona state board of accountancy.

(b) The state board of appraisal.

(c) The board of barbers.

(d) The board of behavioral health examiners.

(e) The Arizona state boxing and mixed martial arts commission.

(f) The state board of chiropractic examiners.

(g) The board of cosmetology.

(h) The state board of dental examiners.

(i) The state board of funeral directors and embalmers.

(j) The Arizona game and fish commission.

(k) The board of homeopathic and integrated medicine examiners.

(l) The Arizona medical board.

(m) The naturopathic physicians medical board.

(n) The state board of nursing.

(o) The board of examiners of nursing care institution administrators and adult care home managers.

(p) The board of occupational therapy examiners.

(q) The state board of dispensing opticians.

(r) The state board of optometry.

- (s) The Arizona board of osteopathic examiners in medicine and surgery.
- (t) The Arizona peace officer standards and training board.
- (u) The Arizona state board of pharmacy.
- (v) The board of physical therapy.
- (w) The state board of podiatry examiners.
- (x) The state board for private postsecondary education.
- (y) The state board of psychologist examiners.
- (z) The board of respiratory care examiners.
- (aa) The state board of technical registration.
- (bb) The Arizona state veterinary medical examining board.
- (cc) The acupuncture board of examiners.
- (dd) The Arizona regulatory board of physician assistants.
- (ee) The board of athletic training.
- (ff) The board of massage therapy.

41-1092.01. Office of administrative hearings; director; powers and duties; fund

A. An office of administrative hearings is established.

B. The governor shall appoint the director pursuant to section 38-211. At a minimum, the director shall have the experience necessary for appointment as an administrative law judge. The director also shall possess supervisory, management and administrative skills, as well as knowledge and experience relating to administrative law.

C. The director shall:

1. Serve as the chief administrative law judge of the office.
2. Make and execute the contracts and other instruments that are necessary to perform the director's duties.
3. Subject to chapter 4, article 4 of this title, hire employees, including full-time administrative law judges, and contract for special services, including temporary administrative law judges, that are necessary to carry out this article. An administrative law judge employed or contracted by the office shall have graduated from an accredited college of law or shall have at least two years of administrative or managerial experience in the subject matter or agency section the administrative law judge is assigned to in the office.

4. Make rules that are necessary to carry out this article, including rules governing ex parte communications in contested cases.

5. Submit a report to the governor, speaker of the house of representatives and president of the senate by November 1 of each year describing the activities and accomplishments of the office. The director's annual report shall include a summary of the extent and effect of agencies' utilization of administrative law judges, court reporters and other personnel in proceedings under this article and recommendations for changes or improvements in the administrative procedure act or any agency's practice or policy with respect to the administrative procedure act.

6. Secure, compile and maintain all decisions, opinions or reports of administrative law judges issued pursuant to this article and the reference materials and supporting information that may be appropriate.

7. Develop, implement and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this article. The program shall require that an administrative law judge receive training in the technical and subject matter areas of the sections to which the administrative law judge is assigned.

8. Develop, implement and maintain a program of evaluation to aid the director in the evaluation of administrative law judges appointed pursuant to this article that includes comments received from the public.

9. Annually report the following to the governor, the president of the senate and the speaker of the house of representatives by December 1 for the prior fiscal year:

(a) The number of administrative law judge decisions rejected or modified by agency heads.

(b) By category, the number and disposition of motions filed pursuant to section 41-1092.07, subsection A to disqualify office administrative law judges for bias, prejudice, personal interest or lack of expertise.

(c) By agency, the number and type of violations of section 41-1009.

10. Schedule hearings pursuant to section 41-1092.05 upon the request of an agency or the filing of a notice of appeal pursuant to section 41-1092.03.

D. The director shall not require legal representation to appear before an administrative law judge.

E. Except as provided in subsection F of this section, all state agencies supported by state general fund sources, unless exempted by this article, and the registrar of contractors shall use the services and personnel of the office to conduct administrative hearings. All other agencies shall contract for services and personnel of the office to conduct administrative hearings.

F. An agency head, board or commission that directly conducts an administrative hearing as an administrative law judge is not required to use the services and personnel of the office for that hearing.

G. Each state agency, and each political subdivision contracting for office services pursuant to subsection I of this section, shall make its facilities available, as necessary, for use by the office in conducting proceedings pursuant to this article.

H. The office shall employ full-time administrative law judges to conduct hearings required by this article or other laws as follows:

1. The director shall assign administrative law judges from the office to an agency, on either a temporary or a permanent basis, at supervisory or other levels, to preside over contested cases and appealable agency actions in accordance with the special expertise of the administrative law judge in the subject matter of the agency.

2. The director shall establish the subject matter and agency sections within the office that are necessary to carry out this article. Each subject matter and agency section shall provide training in the technical and subject matter areas of the section as prescribed in subsection C, paragraph 7 of this section.

I. If the office cannot furnish an office administrative law judge promptly in response to an agency request, the director may contract with qualified individuals to serve as temporary administrative law judges. These temporary administrative law judges are not employees of this state.

J. The office may provide administrative law judges on a contract basis to any governmental entity to conduct any hearing not covered by this article. The director may enter into contracts with political subdivisions of this state, and these political subdivisions may contract with the director for the purpose of providing administrative law judges and reporters for administrative proceedings or informal dispute resolution. The contract may define the scope of the administrative law judge's duties. Those duties may include the preparation of findings, conclusions, decisions or recommended decisions or a recommendation for action by the political subdivision. For these services, the director shall request payment for services directly from the political subdivision for which the services are performed, and the director may accept payment on either an advance or reimbursable basis.

K. The office shall apply monies received pursuant to subsections E and J of this section to offset its actual costs for providing personnel and services.

41-1092.02. Appealable agency actions; application of procedural rules; exemption from article

A. This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:

1. The state department of corrections.
2. The board of executive clemency.
3. The industrial commission of Arizona.
4. The Arizona corporation commission.
5. The Arizona board of regents and institutions under its jurisdiction.
6. The state personnel board.
7. The department of juvenile corrections.
8. The department of transportation, except as provided in title 28, chapter 30, article 2.
9. The department of economic security except as provided in section 46-458.
10. The department of revenue regarding:

(a) Income tax or withholding tax.

(b) Any tax issue related to information associated with the reporting of income tax or withholding tax unless the taxpayer requests in writing that this article apply and waives confidentiality under title 42, chapter 2, article 1.

11. The board of tax appeals.

12. The state board of equalization.

13. The state board of education, but only in connection with contested cases and appealable agency actions related to applications for issuance or renewal of a certificate and discipline of certificate holders pursuant to sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.

14. The board of fingerprinting.

15. The department of child safety except as provided in sections 8-506.01 and 8-811.

B. Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.

C. Except as provided in subsection A of this section:

1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to section 42-1251.

2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.

D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.

E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.

F. The board of appeals established by section 37-213 is exempt from:

1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.

G. Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.

41-1092.03. Notice of appealable agency action or contested case; hearing; informal settlement conference; applicability

A. Except as provided in subsection D of this section, an agency shall serve notice of an appealable agency action or contested case pursuant to section 41-1092.04. The notice shall:

1. Identify the statute or rule that is alleged to have been violated or on which the action is based.
2. Identify with reasonable particularity the nature of any alleged violation, including, if applicable, the conduct or activity constituting the violation.
3. Include a description of the party's right to request a hearing on the appealable agency action or contested case.
4. Include a description of the party's right to request an informal settlement conference pursuant to section 41-1092.06.

B. A party may obtain a hearing on an appealable agency action or contested case by filing a notice of appeal or request for a hearing with the agency within thirty days after receiving the notice prescribed in subsection A of this section. The notice of appeal or request for a hearing may be filed by a party whose legal rights, duties or privileges were determined by the appealable agency action or contested case. A notice of appeal or request for a hearing also may be filed by a party who will be adversely affected by the appealable agency action or contested case and who exercised any right provided by law to comment on the action being appealed or contested, provided that the grounds for the notice of appeal or request for a hearing are limited to issues raised in that party's comments. The notice of appeal or request for a hearing shall identify the party, the party's address, the agency and the action being appealed or contested and shall contain a concise statement of the reasons for the appeal or request for a hearing. The agency shall notify the office of the appeal or request for a hearing and the office shall schedule an appeal or contested case hearing pursuant to section 41-1092.05, except as provided in section 41-1092.01, subsection F.

C. If good cause is shown an agency head may accept an appeal or request for a hearing that is not filed in a timely manner.

D. This section does not apply to a contested case if the agency:

1. Initiates the contested case hearing pursuant to law other than this chapter and not in response to a request by another party.
2. Is not required by law, other than this chapter, to provide an opportunity for an administrative hearing before taking action that determines the legal rights, duties or privileges of an applicant for a license.

41-1092.04. Service of documents

Unless otherwise provided in this article, every notice or decision under this article shall be served by personal delivery or certified mail, return receipt requested, or by any other method reasonably calculated to effect actual notice on the agency and every other party to the action to the party's last address of record with the agency. Each party shall inform the agency and the office of any change of address within five days of the change.

41-1092.05. Scheduling of hearings; prehearing conferences

A. Except as provided in subsections B and C, hearings for:

1. Appealable agency actions shall be held within sixty days after the notice of appeal is filed.
2. Contested cases shall be held within sixty days after the agency's request for a hearing.

B. Hearings for appealable agency actions of or contested cases with self-supporting regulatory boards that meet quarterly or less frequently shall be held at the next meeting of the board after the board receives the written decision of an administrative law judge or the issuance of the notice of hearing, except that:

1. If the decision of the administrative law judge is received or the notice of hearing is issued within thirty days before the board meets, the hearing shall be held at the following meeting of the board.
2. If good cause is shown, the hearing may be held at a later meeting of the board.

C. The date scheduled for the hearing may be advanced or delayed on the agreement of the parties or on a showing of good cause.

D. The agency shall prepare and serve a notice of hearing on all parties to the appeal or contested case at least thirty days before the hearing. The notice shall include:

1. A statement of the time, place and nature of the hearing.
2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
3. A reference to the particular sections of the statutes and rules involved.
4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. After the initial notice and on application, a more definite and detailed statement shall be furnished.

E. Notwithstanding subsection D, a hearing shall be expedited as provided by law or upon a showing of extraordinary circumstances or the possibility of irreparable harm if the parties to the appeal or contested case have actual notice of the hearing date. Any party to the appeal or contested case may file a motion with the director asserting the party's right to an expedited hearing. The right to an expedited hearing shall be listed on any abatement order. The Arizona health care cost containment system administration may file a motion with every member grievance and eligibility appeal that cites federal law and that requests that a hearing be set within thirty days after the motion is filed.

F. Prehearing conferences may be held to:

1. Clarify or limit procedural, legal or factual issues.
2. Consider amendments to any pleadings.
3. Identify and exchange lists of witnesses and exhibits intended to be introduced at the hearing.
4. Obtain stipulations or rulings regarding testimony, exhibits, facts or law.

5. Schedule deadlines, hearing dates and locations if not previously set.

6. Allow the parties opportunity to discuss settlement.

41-1092.06. Appeals of agency actions and contested cases; informal settlement conferences; applicability

A. If requested by the appellant of an appealable agency action or the respondent in a contested case, the agency shall hold an informal settlement conference within fifteen days after receiving the request. A request for an informal settlement conference shall be in writing and shall be filed with the agency no later than twenty days before the hearing. If an informal settlement conference is requested, the agency shall notify the office of the request and the outcome of the conference, except as provided in section 41-1092.01, subsection F. The request for an informal settlement conference does not toll the sixty day period in which the administrative hearing is to be held pursuant to section 41-1092.05.

B. If an informal settlement conference is held, a person with the authority to act on behalf of the agency must represent the agency at the conference. The agency representative shall notify the appellant in writing that statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference shall waive their right to object to the participation of the agency representative in the final administrative decision.

41-1092.07. Hearings

A. A party to a contested case or appealable agency action may file a nonperemptory motion with the director to disqualify an office administrative law judge from conducting a hearing for bias, prejudice, personal interest or lack of technical expertise necessary for a hearing.

B. The parties to a contested case or appealable agency action have the right to be represented by counsel or to proceed without counsel, to submit evidence and to cross-examine witnesses.

C. The administrative law judge may issue subpoenas to compel the attendance of witnesses and the production of documents. The subpoenas shall be served and, on application to the superior court, enforced in the manner provided by law for the service and enforcement of subpoenas in civil matters. The administrative law judge may administer oaths and affirmations to witnesses.

D. All parties shall have the opportunity to respond and present evidence and argument on all relevant issues. All relevant evidence is admissible, but the administrative law judge may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues or by considerations of undue delay, waste of time or needless presentation of cumulative evidence. The administrative law judge shall exercise reasonable control over the manner and order of cross-examining witnesses and presenting evidence to make the cross-examination and presentation effective for ascertaining the truth, avoiding needless consumption of time and protecting witnesses from harassment or undue embarrassment.

E. All hearings shall be recorded. The administrative law judge shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding at the agency's expense. Any party that requests a transcript of the proceeding shall pay the costs of the transcript to the court reporter or other transcriber.

F. Unless otherwise provided by law, the following apply:

1. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings is grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.

2. Copies of documentary evidence may be received in the discretion of the administrative law judge. On request, parties shall be given an opportunity to compare the copy with the original.

3. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence and specialized knowledge may be used in the evaluation of the evidence.

4. On application of a party or the agency and for use as evidence, the administrative law judge may permit a deposition to be taken, in the manner and on the terms designated by the administrative law judge, of a witness who cannot be subpoenaed or who is unable to attend the hearing. Subpoenas for the production of documents may be ordered by the administrative law judge if the party seeking the discovery demonstrates that the party has reasonable need of the materials being sought. All provisions of law compelling a person under subpoena to testify are applicable. Fees for attendance as a witness shall be the same as for a witness in court, unless otherwise provided by law or agency rule. Notwithstanding section 12-2212, subpoenas, depositions or other discovery shall not be permitted except as provided by this paragraph or subsection C of this section.

5. Informal disposition may be made by stipulation, agreed settlement, consent order or default.

6. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

7. A final administrative decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

G. Except as otherwise provided by law:

1. At a hearing on an agency's denial of a license or permit or a denial of an application or request for modification of a license or permit, the applicant has the burden of persuasion.

2. At a hearing on an agency action to suspend, revoke, terminate or modify on its own initiative material conditions of a license or permit, the agency has the burden of persuasion.

3. At a hearing on an agency's imposition of fees or penalties or any agency compliance order, the agency has the burden of persuasion.

4. At a hearing held pursuant to title 41, chapter 23 or 24, the appellant or claimant has the burden of persuasion.

H. Subsection G of this section does not affect the law governing burden of persuasion in an agency denial of, or refusal to issue, a license renewal.

41-1092.08. [Final administrative decisions; review](#)

A. The administrative law judge of the office shall issue a written decision within twenty days after the hearing is concluded. The written decision shall contain a concise explanation of the reasons supporting the decision. The administrative law judge shall serve a copy of the decision on the agency. Upon request of the agency, the office shall also transmit to the agency the record of the hearing as described in section 12-904, except as provided in section 41-1092.01, subsection F.

B. Within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, the head of the agency, executive director, board or commission may review the decision and accept, reject or modify it. If the head of the agency, executive director, board or commission declines to review the administrative law judge's decision, the agency shall serve a copy of the decision on all parties. If the head of the agency, executive director, board or commission rejects or modifies the decision the agency head, executive director, board or commission must file with the office, except as provided in section 41-1092.01, subsection F, and serve on all parties a copy of the administrative law judge's decision with the rejection or modification and a written justification setting forth the reasons for the rejection or modification.

C. A board or commission whose members are appointed by the governor may review the decision of the agency head, as provided by law, and make the final administrative decision.

D. Except as otherwise provided in this subsection, if the head of the agency or a board or commission does not accept, reject or modify the administrative law judge's decision within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, as evidenced by receipt of such action by the office by the thirtieth day the office shall certify the administrative law judge's decision as the final administrative decision. If the board or commission meets monthly or less frequently, if the office sends the administrative law judge's decision at least thirty days before the next meeting of the board or commission and if the board or commission does not accept, reject or modify the administrative law judge's decision at the next meeting of the board or commission, as evidenced by receipt of such action by the office within five days after the meeting the office shall certify the administrative law judge's decision as the final administrative decision.

E. For the purposes of subsections B and D of this section, a copy of the administrative law judge's decision is sent on personal delivery of the decision or five days after the decision is mailed to the head of the agency, executive director, board or commission.

F. The decision of the agency head is the final administrative decision unless either:

1. The agency head, executive director, board or commission does not review the administrative law judge's decision pursuant to subsection B of this section or does not reject or modify the administrative law judge's decision as provided in subsection D of this section, in which case the administrative law judge's decision is the final administrative decision.

2. The decision of the agency head is subject to review pursuant to subsection C of this section.

G. If a board or commission whose members are appointed by the governor makes the final administrative decision as an administrative law judge or upon review of the decision of the agency head, the decision is not subject to review by the head of the agency.

H. A party may appeal a final administrative decision pursuant to title 12, chapter 7, article 6, except as provided in section 41-1092.09, subsection B and except that if a party has not requested a hearing upon receipt of a notice of appealable agency action pursuant to section 41-1092.03, the appealable agency action is not subject to judicial review.

I. This section does not apply to the Arizona peace officer standards and training board established by section 41-1821.

41-1092.09. Rehearing or review

A. Except as provided in subsection B of this section:

1. A party may file a motion for rehearing or review within thirty days after service of the final administrative decision.

2. The opposing party may file a response to the motion for rehearing within fifteen days after the date the motion for rehearing is filed.

3. After a hearing has been held and a final administrative decision has been entered pursuant to section 41-1092.08, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

B. A party to an appealable agency action of or contested case with a self-supporting regulatory board shall exhaust the party's administrative remedies by filing a motion for rehearing or review within thirty days after the service of the administrative decision that is subject to rehearing or review in order to be eligible for judicial review pursuant to title 12, chapter 7, article 6. The board shall notify the parties in the administrative decision that is subject to rehearing or review that a failure to file a motion for rehearing or review within thirty days after service of the decision has the effect of prohibiting the parties from seeking judicial review of the board's decision.

C. Service is complete on personal service or five days after the date that the final administrative decision is mailed to the party's last known address.

D. Except as provided in this subsection, the agency head, executive director, board or commission shall rule on the motion within fifteen days after the response to the motion is filed or, if a response is not filed, within five days of the expiration of the response period. A self-supporting regulatory board shall rule on the motion within fifteen days after the response to the motion is filed or at the board's next meeting after the motion is received, whichever is later.

41-1092.10. Compulsory testimony; privilege against self-incrimination

A. A person may not refuse to attend and testify or produce evidence sought by an agency in an action, proceeding or investigation instituted by or before the agency on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture unless it constitutes the compelled testimony or the private papers of the person that would be privileged evidence either pursuant to the fifth amendment of the Constitution of the United States or article II, section 10, Constitution of Arizona, and the person claims the privilege before the production of the testimony or papers.

B. If a person asserts the privilege against self-incrimination and the agency seeks to compel production of the testimony or documents sought, the office or agency as provided in section 41-1092.01, subsection F may issue, with the prior written approval of the attorney general, a written order compelling the testimony or production of documents in proceedings and investigations before the office or agency as provided in section 41-1092.01, subsection F or apply to the appropriate court for such an order in other actions or proceedings.

C. Evidence produced pursuant to subsection B of this section is not admissible in evidence or usable in any manner in a criminal prosecution, except for perjury, false swearing, tampering with physical evidence or any other offense committed in connection with the appearance made pursuant to this section against the person testifying or the person producing the person's private papers.

41-1092.11. Licenses; renewal; revocation; suspension; annulment; withdrawal

A. If a licensee makes timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

B. Revocation, suspension, annulment or withdrawal of any license is not lawful unless, before the action, the agency provides the licensee with notice and an opportunity for a hearing in accordance with this article. If the agency finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the agency may order summary suspension of a license pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

41-1092.12. Private right of action; recovery of costs and fees; definitions

A. If an agency takes an action against a party that is arbitrary, capricious or not in accordance with law, the action is an appealable agency action if all of the following apply:

1. Within ten days after the action that is arbitrary, capricious or not in accordance with law, the party notifies the director of the agency in writing of the party's intent to file a claim pursuant to this section. This notice shall include a description of the action the party claims to be arbitrary, capricious or not in accordance with law and reasons why the action is arbitrary, capricious or not in accordance with law.

2. The agency continues the action that is arbitrary, capricious or not in accordance with law more than ten days after the agency receives the notice.

3. The action is not excluded from the definition of appealable agency action as defined in section 41-1092.

B. This section only applies if an administrative remedy or an administrative or a judicial appeal of final agency action is not otherwise provided by law.

C. If the party prevails, the agency shall pay reasonable costs and fees to the party from any monies appropriated to the agency and available for that purpose or from other operating monies of the agency. If the agency fails or refuses to pay the award within fifteen days after the demand, and if no further review or appeal of the award is pending, the prevailing party may file a claim with the department of administration. The department of administration shall pay the claim within thirty days in the same manner as an uninsured property loss under title 41, chapter 3.1, article 1, except that the agency is responsible for the total amount awarded and shall pay it from its operating monies. If the agency had appropriated monies available for paying the award at the time it failed or refused to pay, the legislature shall reduce the agency's operating appropriation for the following fiscal year by the amount of the award and shall appropriate that amount to the department of administration as reimbursement for the loss.

D. If the administrative law judge determines that the appealable agency action is frivolous, the administrative law judge may require the party to pay reasonable costs and fees to the agency in responding to the appeal filed before the office of administrative hearings.

E. For the purposes of this section:

1. "Action against the party" means any of the following that results in the expenditure of costs and fees:

(a) A decision.

(b) An inspection.

(c) An investigation.

(d) The entry of private property.

2. "Agency" means the department of environmental quality established pursuant to title 49, chapter 1, article 1.

3. "Costs and fees" means reasonable attorney and professional fees.

4. "Party" means an individual, partnership, corporation, association and public or private organization at whom the action was directed and who has expended costs and fees as a result of the action against the party.

49-114. Appeals of agency decisions

Notwithstanding any other administrative proceeding established in this title or by rule, all appealable agency actions as defined in section 41-1092 and contested cases as defined in section 41-1001 shall be governed by title 41, chapter 6, article 10.

41-1074. Compliance with administrative completeness review time frame

A. An agency shall issue a written notice of administrative completeness or deficiencies to an applicant for a license within the administrative completeness review time frame.

B. If an agency determines that an application for a license is not administratively complete, the agency shall include a comprehensive list of the specific deficiencies in the written notice provided pursuant to subsection A. If the agency issues a written notice of deficiencies within the administrative completeness time frame, the administrative completeness review time frame and the overall time frame are suspended from the date the notice is issued until the date that the agency receives the missing information from the applicant.

C. If an agency does not issue a written notice of administrative completeness or deficiencies within the administrative completeness review time frame, the application is deemed administratively complete. If an agency issues a timely written notice of deficiencies, an application shall not be complete until all requested information has been received by the agency.

41-1075. Compliance with substantive review time frame

A. During the substantive review time frame, an agency may make one comprehensive written request for additional information. The agency and applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information. If an agency issues a comprehensive written request or a supplemental request by mutual written agreement for additional information, the substantive review time

frame and the overall time frame are suspended from the date the request is issued until the date that the agency receives the additional information from the applicant.

B. By mutual written agreement, an agency and an applicant for a license may extend the substantive review time frame and the overall time frame. An extension of the substantive review time frame and the overall time frame may not exceed twenty-five per cent of the overall time frame.

41-1076. Compliance with overall time frame

Unless an agency and an applicant for a license mutually agree to extend the substantive review time frame and the overall time frame pursuant to section 41-1075, an agency shall issue a written notice granting or denying a license within the overall time frame to an applicant. If an agency denies an application for a license, the agency shall include in the written notice at least the following information:

1. Justification for the denial with references to the statutes or rules on which the denial is based.
2. An explanation of the applicant's right to appeal the denial. The explanation shall include the number of days in which the applicant must file a protest challenging the denial and the name and telephone number of an agency contact person who can answer questions regarding the appeals process.

41-1023. Public participation; written statements; oral proceedings

A. After providing notice of docket openings, an agency may meet informally with any interested party for the purpose of discussing the proposed rule making action. The agency may solicit comments, suggested language or other input on the proposed rule. The agency may publish notice of these meetings in the register.

B. For at least thirty days after publication of the notice of the proposed rule making, an agency shall afford persons the opportunity to submit in writing statements, arguments, data and views on the proposed rule, with or without the opportunity to present them orally.

C. An agency shall schedule an oral proceeding on a proposed rule if, within thirty days after the published notice of proposed rule making, a written request for an oral proceeding is submitted to the agency personnel listed pursuant to section 41-1021, subsection B.

D. An oral proceeding on a proposed rule may not be held earlier than thirty days after notice of its location and time is published in the register. The agency shall determine a location and time for the oral proceeding which affords a reasonable opportunity to persons to participate. The oral proceeding shall be conducted in a manner that allows for adequate discussion of the substance and the form of the proposed rule, and persons may ask questions regarding the proposed rule and present oral argument, data and views on the proposed rule.

E. The agency, a member of the agency or another presiding officer designated by the agency shall preside at an oral proceeding on a proposed rule. If the agency does not preside, the presiding official shall prepare a memorandum for consideration by the agency summarizing the contents of the presentations made at the oral proceeding. Oral proceedings must be open to the public and recorded by stenographic or other means.

F. Each agency may make rules for the conduct of oral rule making proceedings. Those rules may include provisions calculated to prevent undue repetition in the oral proceedings.

41-1033. Petition for a rule or review of a practice or policy

A. Any person, in a manner and form prescribed by the agency, may petition an agency requesting the making of a final rule or a review of an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule. The petition shall clearly state the rule, agency practice or substantive policy statement which the person wishes the agency to make or review. Within sixty days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for denial, initiate rule making proceedings in accordance with this chapter or, if otherwise lawful, make a rule.

B. A person may appeal to the council the agency's final decision within thirty days after the agency gives written notice pursuant to subsection A of this section. The appeal shall be limited to whether an existing agency practice or substantive policy statement constitutes a rule. The council chairperson shall place this appeal on the agenda of the council's next meeting if at least three council members make such a request of the council chairperson within two weeks after the filing of the appeal.

C. If the council receives information indicating that an existing agency practice or substantive policy statement may constitute a rule and at least four council members request the chairperson that the matter be heard in a public meeting:

1. Within ninety days of receipt of the fourth council member request, the council shall determine if the agency practice or substantive policy statement constitutes a rule.

2. Within ten days of receipt of the fourth council member request, the council shall notify the agency that the matter has been or will be placed on an agenda.

3. Within thirty days of receiving notice from the council, the agency shall submit a statement that addresses whether the existing agency practice or substantive policy statement constitutes a rule.

D. For the purposes of subsection C of this section, the council meeting shall not be held until the expiration of the agency response period prescribed in subsection C, paragraph 3 of this subsection.

E. An agency practice or substantive policy statement considered by the council pursuant to this section shall remain in effect while under consideration of the council. If the council ultimately decides the agency practice or statement constitutes a rule, the practice or statement shall be considered void.

F. A decision by the agency pursuant to this section is not subject to judicial review, except that, in addition to the procedure prescribed in this section or in lieu of the procedure prescribed in this section, a person may seek declaratory relief pursuant to section 41-1034.

41-1056. Review by agency

A. At least once every five years, each agency shall review all of its rules, including rules made pursuant to an exemption from this chapter or any part of this chapter, to determine whether any rule should be amended or repealed. The agency shall prepare and obtain council approval of a written report summarizing its findings, its supporting reasons and any proposed course of action. The report shall contain a certification that the agency is in compliance with section 41-1091. For each rule, the report shall include a concise analysis of all of the following:

1. The rule's effectiveness in achieving its objectives, including a summary of any available data supporting the conclusions reached.

2. Written criticisms of the rule received during the previous five years, including any written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods.
 3. Authorization of the rule by existing statutes.
 4. Whether the rule is consistent with statutes or other rules made by the agency and current agency enforcement policy.
 5. The clarity, conciseness and understandability of the rule.
 6. The estimated economic, small business and consumer impact of the rules as compared to the economic, small business and consumer impact statement prepared on the last making of the rules.
 7. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states.
 8. If applicable, that the agency completed the previous five-year review process.
 9. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
 10. A determination that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.
 11. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license or agency authorization, whether the rule complies with section 41-1037.
- B. An agency may also include as part of the report the text of a proposed expedited rule pursuant to section 41-1027.
- C. The council shall schedule the periodic review of each agency's rules and shall approve or return, in whole or in part, the agency's report on its review. The council may grant an agency an extension from filing an agency's report. If the council returns an agency's report, in whole or in part, the council shall inform the agency of the manner in which its report is inadequate and, in consultation with the agency, shall schedule submission of a revised report. The council shall not approve a report unless the report complies with subsection A of this section.
- D. The council may review rules outside of the five-year review process if requested by at least four council members.
- E. The council may require the agency to propose an amendment or repeal of the rule by a date no earlier than six months after the date of the meeting at which the council considers the agency's report on its rule if the council determines the agency's analysis under subsection A of this section demonstrates that the rule is materially flawed, including that the rule:
1. Is not authorized by statute.

2. Is inconsistent with other statutes, rules or agency enforcement policies and the inconsistency results in a significant burden on the regulated public.

3. Imposes probable costs, including costs to the regulated person, that significantly exceed the probable benefits of the rule within this state.

4. Is more stringent than a corresponding federal law and there is no statutory authority to exceed the requirements of federal law.

5. Is not clear, concise and understandable.

6. Does not use general permits if required under section 41-1037.

7. Does not impose the least burden to persons regulated by the rule as necessary to achieve the underlying regulatory objective of the rule.

8. Does not rely on valid scientific or reliable principles and methods, including a study, if the rule relies on scientific principles or methods, and a person has submitted an analysis under subsection A of this section questioning whether the rule is based on valid scientific or reliable principles or methods. In making a determination of validity or reliability, the council shall consider the factors listed in section 41-1052, subsection G.

F. An agency may request an extension of no longer than one year from the date specified by the council pursuant to subsection E of this section by sending a written request to the council that:

1. Identifies the reason for the extension request.

2. Demonstrates good cause for the extension.

G. The agency shall notify the council of an amendment or repeal of a rule for which the council has set an expiration date under subsection E of this section. If the agency does not amend or repeal the rule by the date specified by the council under subsection E of this section or the extended date under subsection F of this section, the rule automatically expires. The council shall file a notice of rule expiration with the secretary of state and notify the agency of the expiration of the rule.

H. The council may reschedule a report or portion of a report for any rule that is scheduled for review and that was initially made or substantially revised within two years before the due date of the report as scheduled by the council.

I. If an agency finds that it cannot provide the written report to the council by the date it is due, the agency may file an extension with the council before the due date indicating the reason for the extension. The timely filing for an extension permits the agency to submit its report on or before the date prescribed by the council.

J. If an agency fails to submit its report, including a revised report, pursuant to subsection A or C of this section, or file an extension before the due date of the report or if it files an extension and does not submit its report within the extension period, the rules scheduled for review expire and the council shall:

1. Cause a notice to be published in the next register that states the rules have expired and are no longer enforceable.

2. Notify the secretary of state that the rules have expired and that the rules are to be removed from the code.

3. Notify the agency that the rules have expired and are no longer enforceable.

K. If a rule expires as provided in subsection J of this section and the agency wishes to reestablish the rule, the agency shall comply with the requirements of this chapter.

L. Not less than ninety days before the due date of a report, the council shall send a written notice to the head of the agency whose report is due. The notice shall list the rules to be reviewed and the date the report is due.

M. A person who is regulated or could be regulated by an obsolete rule may petition the council to require an agency that has the obsolete rule to consider including the rule in the five-year report with a recommendation for repeal of the rule.

N. A person who is required to obtain or could be required to obtain a license may petition the council to require an agency to consider including a recommendation for reducing a licensing time frame in the five-year report.

41-1072. Definitions

In this article, unless the context otherwise requires:

1. "Administrative completeness review time frame" means the number of days from agency receipt of an application for a license until an agency determines that the application contains all components required by statute or rule, including all information required to be submitted by other government agencies. The administrative completeness review time frame does not include the period of time during which an agency provides public notice of the license application or performs a substantive review of the application.

2. "Overall time frame" means the number of days after receipt of an application for a license during which an agency determines whether to grant or deny a license. The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame.

3. "Substantive review time frame" means the number of days after the completion of the administrative completeness review time frame during which an agency determines whether an application or applicant for a license meets all substantive criteria required by statute or rule. Any public notice and hearings required by law shall fall within the substantive review time frame.

41-1073. Time frames; exception

A. No later than December 31, 1998, an agency that issues licenses shall have in place final rules establishing an overall time frame during which the agency will either grant or deny each type of license that it issues. Agencies shall submit their overall time frame rules to the governor's regulatory review council pursuant to the schedule developed by the council. The council shall schedule each agency's rules so that final overall time frame rules are in place no later than December 31, 1998. The rule regarding the overall time frame for each type of license shall state separately the administrative completeness review time frame and the substantive review time frame.

B. If a statutory licensing time frame already exists for an agency but the statutory time frame does not specify separate time frames for the administrative completeness review and the substantive review, by rule the agency shall establish separate time frames for the administrative completeness review and the substantive review,

which together shall not exceed the statutory overall time frame. An agency may establish different time frames for initial licenses, renewal licenses and revisions to existing licenses.

C. The submission by the department of environmental quality of a revised permit to the United States environmental protection agency in response to an objection by that agency shall be given the same effect as a notice granting or denying a permit application for licensing time frame purposes. For the purposes of this subsection, "permit" means a permit required by title 49, chapter 2, article 3.1 or section 49-426.

D. In establishing time frames, agencies shall consider all of the following:

1. The complexity of the licensing subject matter.
2. The resources of the agency granting or denying the license.
3. The economic impact of delay on the regulated community.
4. The impact of the licensing decision on public health and safety.
5. The possible use of volunteers with expertise in the subject matter area.
6. The possible increased use of general licenses for similar types of licensed businesses or facilities.
7. The possible increased cooperation between the agency and the regulated community.
8. Increased agency flexibility in structuring the licensing process and personnel.

E. This article does not apply to licenses issued either:

1. Pursuant to tribal state gaming compacts.
2. Within seven days after receipt of initial application.
3. By a lottery method.

41-1077. Consequence for agency failure to comply with overall time frame; refund; penalty

A. If an agency does not issue to an applicant the written notice granting or denying a license within the overall time frame or within the time frame extension pursuant to section 41-1075, the agency shall refund to the applicant all fees charged for reviewing and acting on the application for the license and shall excuse payment of any such fees that have not yet been paid. The agency shall not require an applicant to submit an application for a refund pursuant to this subsection. The refund shall be made within thirty days after the expiration of the overall time frame or the time frame extension. The agency shall continue to process the application subject to subsection B of this section. Notwithstanding any other statute, the agency shall make the refund from the fund in which the application fees were originally deposited. This section applies only to license applications that were subject to substantive review.

B. Except for license applications that were not subject to substantive review, the agency shall pay a penalty to the state general fund for each month after the expiration of the overall time frame or the time frame extension until the agency issues written notice to the applicant granting or denying the license. The agency shall pay the

penalty from the agency fund in which the application fees were originally deposited. The penalty shall be two and one-half per cent of the total fees received by the agency for reviewing and acting on the application for each license that the agency has not granted or denied on the last day of each month after the expiration of the overall time frame or time frame extension for that license.

DEPARTMENT OF HOUSING (F-17-0707)

Title 4, Chapter 34, Article 1, General; Article 2, Licensing; Article 3, Sales Transactions and Trust or Escrow Account; Article 4, Surety Bonds; Article 5, Fees; Article 6, Manufacturing, Construction, and Inspection; Article 7, Plan Approvals; Article 8, Permits and Installations; Article 10, Administrative Procedures



**GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT**

MEETING DATE: July 6, 2017

AGENDA ITEM: E-8

TO: Members of the Governor's Regulatory Review Council

FROM: Shama Thathi, Staff Attorney

DATE : June 20, 2017

SUBJECT: DEPARTMENT OF HOUSING (F-17-0707)
Title 4, Chapter 34, Article 1, General; Article 2, Licensing; Article 3, Sales Transactions and Trust or Escrow Account; Article 4, Surety Bonds; Article 5, Fees; Article 6, Manufacturing, Construction, and Inspection; Article 7, Plan Approvals; Article 8, Permits and Installations; Article 10, Administrative Procedures

COMMENTS ON THE FIVE-YEAR-REVIEW REPORT

Purpose of the Agency and Number of Rules in the Report

Pursuant to A.R.S. § 41-4002, the purpose of the Office of Manufactured Housing (Office), within the Department of Housing (Department), is to maintain and enforce standards of quality and safety for manufactured homes, factory-built buildings, mobile homes and accessory structures. Prior to June 30, 2016, the Office was located within the Department of Fire, Building and Life Safety (DFBLS). The Office is required to conduct its affairs consistently with minimum standards of the U.S. Department of Housing and Urban Development (HUD) so the Office can be designated the "state inspector" for manufactured homes and related industries. Additionally, the Board of Manufactured Housing (Board) is responsible for adopting rules regarding standards of quality and safety for manufactured homes and factory built buildings.

This five-year-review report covers 36 rules in A.A.C. Title 4, Chapter 34. Article 1 contains definitions and general provisions. Article 2 contains licensing rules for manufacturers, retailers, and installers. Article 3 relates to transaction documents, advertising, and brokered transactions. Article 4 contains rules regarding submission of surety bond forms and posting cash bonds in place of commercial surety bonds. Article 5 relates to various types of fees. Article 6 contains rules regarding manufacturing, construction, and inspection of manufactured homes and factory-built buildings. Article 7 contains rules related to plan approvals. Article 8 related to various permits required by the Office. Lastly, Article 10 contains a rule on rehearing or review of the director's decision.

The rules were last amended at various times between 1999 and 2012.

Proposed Action

In a spreadsheet, attached to the report, the Board thoroughly outlines its proposed course of action for each rule. For all rules within Chapter 34, the Board proposes to correct all statutory cross references. The Board indicates that it plans to finalize a rulemaking by June 30, 2018. The Governor’s Office approved the Board’s exception from the moratorium on May 1, 2017.

Substantive or Procedural Concerns

None.

Analysis of the agency’s report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. Has the agency certified that it is in compliance with A.R.S. § 41-1091?

Yes. The Board has certified that it is in compliance with A.R.S. § 41-1091.

2. Has the agency analyzed the rules’ effectiveness in achieving their objectives?

Yes. The Board indicates that the rules are effective in achieving their objectives, since the Board is able to fulfill its statutory responsibilities.

3. Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?

No. The Board indicates that it has not received any written criticisms of the rules during the last five years.

4. Has the agency analyzed whether the rules are authorized by statute?

Yes. The Board cites to A.R.S. § 41-4010(A) as general authority for the rules, under which the Board shall adopt rules related to construction requirements, design and installation, inspection, licensing standards and bonding requirements, fire and life safety requirements, issuing permits to licensees, etc. The Board also cites specific statutory authority for each rule on pages 2-4 of the report.

5. Has the agency analyzed the rules’ consistency with other rules and statutes?

Yes. The Board indicates that the rules are consistent with other rules and statutes, except for the incorrect internal references caused by the recodification of the Board’s statutes.

6. Has the agency analyzed the current enforcement status of the rules?

Yes. The Board indicates that it enforces the rules, to the extent that they are consistent with statute and other rules.

7. Has the agency analyzed whether the rules are clear, concise, and understandable?

Yes. The Board indicates that the rules are generally clear, concise, and understandable. However, the Board has noted specific actions, in the attached spreadsheet, that will improve the clarity, conciseness, and understandability of the rules.

8. Has the agency analyzed whether:

a. The rules are more stringent than corresponding federal law?

Yes. The Board indicates that the rules are not more stringent than federal laws. The federal laws establishing standards for manufactured homes (24 CFR 3280 through 3288) have been incorporated by reference by the Board. Additionally, the Board enforces the federal regulations regarding dispute resolution for consumers of manufactured homes (24 CFR 3288), plant monitoring (24 CFR 3280 and 3282), and installation inspection (24 CFR 3285 and 3286).

b. There is statutory authority to exceed the requirements of federal law?

Not applicable.

9. For rules adopted after July 29, 2010, has the agency analyzed whether:

a. The rules require issuance of a regulatory permit, license or agency authorization?

Yes. The Board indicates that the rules in Article 8 require issuance of permits for installation.

b. It is in compliance with the general permit requirements of A.R.S. § 41-1037 or explained why it believes an exception applies?

Yes. The rules comply with the general requirements of A.R.S. § 41-1037, as the permits are issued to qualified individuals to conduct activities that are substantially similar in nature.

10. Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?

Yes. In the five-year-review report approved on October 2, 2012, the Board planned to amend R4-34-303(B), which incorrectly states “seller’s broker” rather than “purchaser’s broker.” However, the Board did not complete the proposed course of action because the Board

determined that the possible confusion due to the error was not sufficient to justify the cost of doing a rulemaking.

Conclusion

As mentioned above, the Board plans to amend all of the rules and finalize a rulemaking by June 30, 2018. The report meets the requirements of A.R.S. § 41-1056 and R1-6-301. This analyst recommends the report be approved.



**GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M**

MEETING DATE: July 6, 2017

AGENDA ITEM: E-8

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : June 20, 2017

SUBJECT: DEPARTMENT OF HOUSING (F-17-0707)
Title 4, Chapter 34, Article 1, General; Article 2, Licensing; Article 3, Sales Transactions and Trust or Escrow Account; Article 4, Surety Bonds; Article 5, Fees; Article 6, Manufacturing, Construction, and Inspection; Article 7, Plan Approvals; Article 8, Permits and Installations; Article 10, Administrative Procedures

I reviewed the five-year-review report's economic, small business, and consumer impact comparison for compliance with A.R.S. § 41-1056 and make the following comments.

1. Economic Impact Comparison

Economic, small business, and consumer impact statements (EIS) from the most recent rulemakings were available for the rules. The Board of Manufactured Housing (Board) is responsible for creating rules regarding quality and safety standards for mobile/manufactured homes and factory-built buildings. The Office of Manufactured Housing (Office) is required to conduct its business consistently with the minimum standards of the U.S. Department of Housing and Urban Development ("HUD") so the Office can be designated the "state inspector" for manufactured homes and related industries.

The Board believes it accurately predicted the economic impact in the previous rulemakings. In FY 2016, the volume of HUD homes produced in Arizona increased after a period of decline. There was a 16.2 percent increase from the previous year. In FY 2016, the Arizona Department of Housing (Department) licensed 63 manufacturers (including out-of-state manufacturers who ship homes and buildings into Arizona and are registered with the Arizona Corporation Commission as a foreign corporation doing business in Arizona), 232 dealers, 653 salespersons, and 86 installers. The manufacturers in Arizona employ 987 individuals. Throughout FY 2016, the Department issued 247 new licenses, complying with its licensing time-frames by issuing licenses in an average of two days.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

The Board has determined that the rules are mostly effective and impose the least burden and costs to the regulated community. The cost to comply with these rules is minimal.

3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?

No analysis was submitted to the Department by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states.

4. Conclusion

Staff finds that the report complies with A.R.S. § 41-1056 and recommends approval.

DOUGLAS A. DUCEY
Governor



MICHAEL TRAILOR
Director

STATE OF ARIZONA
DEPARTMENT OF HOUSING
1110 WEST WASHINGTON, SUITE 280
PHOENIX, ARIZONA 85007
(602) 771-1000 WWW.AZHOUSING.GOV
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May 18, 2017

Nicole A. Ong, Chair
Governor's Regulatory Review Council
100 North 15th Avenue, Ste. 305
Phoenix, AZ 85007

RE: Five-year-review Report on 4 A.A.C. 34

Dear Ms. Ong:

As required by A.R.S. § 41-1056, the Board of Manufactured Housing within the Arizona Department of Housing submits for your approval a report on a review of the referenced rules. The Board reviewed all referenced rules.

As required under A.R.S. § 41-1056(A), the Board certifies that it is in compliance with A.R.S. § 41-1091 regarding a substantive policy directory.

If you have questions regarding this report, please contact me at (602) 364-1022.
Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Debra Blake".

Debra Blake
Assistant Deputy Director
Office of Manufactured Housing
Arizona Department of Housing

BOARD of MANUFACTURED HOUSING

Five-year-review Report: A.A.C. Title 4, Chapter 34

May 2017

Five-year-review Report

A.A.C. Title 4. Professions and Occupations

Chapter 34. Board of Manufactured Housing

INTRODUCTION

Under A.R.S. § 41-4002, the Office of Manufactured Housing (“Office”), which is located within the Arizona Department of Housing, is required to maintain and enforce certain standards of quality and safety for mobile/manufactured homes and factory-built buildings. Additionally, the Office is required to conduct its business consistently with the minimum standards of the U.S. Department of Housing and Urban Development (“HUD”) so the Office can be designated the “state inspector” for manufactured homes and related industries. The Board of Manufactured Housing (Board) is responsible for making rules regarding quality and safety standards for mobile/manufactured homes and factory-built buildings.

The Office was previously located within the Department of Fire, Building and Life Safety (DFBLS). However, seeking to enhance efficiencies of state agencies, on June 30, 2016, the DFBLS ceased to exist and its two operational divisions were moved into other state agencies. The Office was moved into the Arizona Department of Housing. The statutory changes resulting in this move caused statutes for the Office and Board to be relabeled. As a result, all statutory cross references in the rules are incorrect at this time.

Statute that generally authorizes the agency to make rules: A.R.S. § 41-4010(A)

1. Specific statute authorizing the rule:

R4-34-101. Definitions: A.R.S. § 41-4010(A)(1), (2), (3), (10), (13), and (15)

R4-34-102. Materials Incorporated by Reference: A.R.S. § 41-4010(A)(1), (2), (3), (10), (13), and (15)

R4-34-103. Exceptions: A.R.S. § 41-4010(A)(1), (2), (3), (10), (13), and (15)

R4-34-104. Workmanship Standards: A.R.S. § 41-4010(A)(1), (2), (3), (10), (13), and (15)

R4-34-201. General: A.R.S. §§ 41-4010(A)(6) through (9) and 41-1073

R4-34-202. Manufacturers: A.R.S. § 41-4010(A)(6)

R4-34-203. Retailers: A.R.S. § 41-4010(A)(7)

R4-34-204. Installers: A.R.S. § 41-4010(A)(8)

R4-34-301. Transaction Copies: A.R.S. § 41-4030

R4-34-302. Advertising: A.R.S. § 41-4039(10) and (14)

R4-34-303. Brokered Transactions: A.R.S. § 41-4039(14)

R4-34-401. Surety Bond Forms: A.R.S. §§ 41-4010(A)(6), (7), and (8)

R4-34-402. Cash Deposits: A.R.S. §§ 41-4010(A)(6), (7), and (8)

R4-34-501. General: A.R.S. §§ 41-4004 and 41-4010(A)(4), (6) through (9), (13), (16)

R4-34-502. License Bond Amounts: A.R.S. §§ 41-4010(A)(6) through (9), (13), and (16)

R4-34-503. HUD Monitoring Inspection: A.R.S. §§ 41-4010(A)(4), (13), and (16)

R4-34-504. HUD Label Administration: A.R.S. §§ 41-4010(A)(4), (13), and (16)

R4-34-505. Plans and Supplements: A.R.S. §§ 41-4010(A)(4), (13), and (16)

R4-34-506. Intergovernmental Agreement Permits: A.R.S. §§ 41-4004(B)(5) and 41-4010(A)(4), (13), and (16)

R4-34-601. Manufactured Homes: A.R.S. §§ 41-4004(B)(1) and 41-4010(A)(2), (3), and (13)

R4-34-603. Factory-built Buildings and FBB Subassemblies: A.R.S. §§ 41-4004(B)(1) and 41-4010(A)(1), (3), and (13)

R4-34-604. Alterations: A.R.S. §§ 41-4004(B)(1) and 41-4010(A)(1) through (3), and (13)

R4-34-605. Reconstruction: A.R.S. §§ 41-4004(B)(1) and 41-4010(A)(1) through (3), and (13)

R4-34-606. Rehabilitation of Mobile Homes: A.R.S. §§ 41-4004(B)(1) and 41-4010(A)(5)

R4-34-607. Manufacturing Inspection and Certification: A.R.S. §§ 41-4004(B)(1) and 41-4010(A)(1) through (3), and (13)

R4-34-701. General: A.R.S. §§ 41-4004(B)(1) and 41-4010(A)(1) through (4), (10), and (18)

R4-34-702. Quality Assurance Manuals: A.R.S. §§ 41-4010(A)(1) through (3) and (10)

R4-34-703. Drawings and Specifications: A.R.S. §§ 41-4005(A) through (C) and 41-4010(A)(1) through (4), (10), and (18)

R4-34-704. Alterations or Reconstruction: A.R.S. §§ 41-4005(B) and 41-4010(A)(1) through (4), (10), and (18)

R4-34-705. Accessory Structures and Ground Anchoring: A.R.S. §§ 41-4005(B) and 41-4010(A)(1) through (4), (10), and (18)

R4-34-706. Factory-built Building Installation: A.R.S. §§ 41-4005(B) and 41-4010(A)(1) , (3), (4), (10), and (18)

R4-34-801. Permits: Factory-built Building Installation: A.R.S. §§ 41-4004(B)(1) and (7) and (F) and 41-4010(A)(5), (8), (13), (14), and (17)

R4-34-802. General Installation: A.R.S. §§ 41-4004(B)(1) and (7) and (F) and 41-4010(A)(5), (8), (13), (14), and (17)

R4-34-803. Soils and Materials: A.R.S. §§ 41-4010(A)(5), (8), (13), (14), (17), and 41-4004(B)(1), (7), and (F)

R4-34-804. Utilities: A.R.S. §§ 41-4010(A)(5), (8), (13), (14), (17), and 41-4004(B)(1), (7), and (F)

R4-34-805. Accessory Structures: A.R.S. §§ 41-4004(B)(1) and (7) and (F) and 41-4010(A)(5), (8), (13), (14), and (17)

R4-34-1001. Rehearing or Review: A.R.S. §§ 41-4010(A)(13) and 41-4038

2. Objective of the rule including the purpose for the existence of the rule:

R4-34-101. Definitions: The objective of the rule is to define terms used in the rules in a manner that is not explained adequately by a dictionary definition. The definitions are designed to facilitate understanding by those who use the rules.

R4-34-102. Materials Incorporated by Reference: The objective of this rule is to list materials the Board has incorporated by reference into the rules. Incorporating materials by reference enables the Board to benefit from the expertise of the federal government or professional organizations responsible for the materials.

R4-34-103. Exceptions: The objective of this rule is to list exceptions to the materials incorporated under R4-34-102 and provide a procedure for a local jurisdiction to petition for an exception to the materials. This provides local jurisdictions with flexibility to adjust incorporated standards to local circumstances.

R4-34-104. Workmanship Standards: The objective of this rule is to establish that work will be done in a professional manner in accordance with professional industry standards and appropriate building codes. These standards protect public health and safety.

R4-34-201. General: The objective of this rule is to establish general application requirements, including an administrative review of an application upon receipt by the Department. This enables an applicant to submit required materials and anticipate issuance of a license.

R4-34-202. Manufacturers: The objective of this rule is to provide descriptions of manufacturers' license classifications and the activities that define the scope of each license class. This enables a manufacturer licensee and the public to know the applicable scope of activities.

R4-34-203. Retailers: The objective of this rule is to provide descriptions of retailers' license classifications and the activities that define the scope of each license class. This enables a retail licensee and the public to know the applicable scope of activities.

R4-34-204. Installers: The objective of this rule is to provide descriptions of installers' license classifications and the activities that define the scope of each license class. The rule also specifies license requirements specific to an installer. This enables an installer licensee and the public to know the applicable scope of activities.

R4-34-301. Transaction Copies: The objective of this rule is to establish requirements for records of sales transactions pertaining to the purchase of manufactured homes, mobile homes, and factory-built buildings. Maintaining records and providing copies protects consumers and licensees.

R4-34-302. Advertising: The objective of this rule is to establish advertising requirements for the sale of manufactured homes, mobile homes, and factory-built buildings. The requirements protect consumers.

R4-34-303. Brokered Transactions: The objective of this rule is to establish requirements for brokered transactions pertaining to the purchase of manufactured homes, mobile homes, and factory-built buildings. The requirements are designed to protect consumers.

R4-34-401. Surety Bond Forms: The objective of this rule is to specify an applicant for a manufacturer, installer, or dealer license is required to submit a surety bond with a surety bond form. This provides notice to applicants. The bond requirement protects consumers.

R4-34-402. Cash Deposits: The objective of this rule is to provide applicants for a license or renewal of a license with an option to post cash or other payment methods in place of a commercial surety bond. This provides flexibility and reduces regulatory burdens.

R4-34-501. General: The objective of this rule is to provide information regarding a schedule of fees in accordance with A.R.S. §§ 41-4010(A)(4), and ensure services provided to the industry by the Office generate fees to cover the Office's expenses within the margin defined by statute. This provides transparency to the industry regarding the Office.

R4-34-502. License Bond Amounts: The objective of this rule is to establish bond amounts for each applicable license class. This provides an applicant or licensee with information necessary to obtain or maintain a license in good standing.

R4-34-503. HUD Monitoring Inspection: The objective of this rule is to inform manufactured home manufacturers about the HUD fee for purchase of HUD labels, which is required for each unit manufactured in Arizona. This assists manufacturers to comply with federal law.

R4-34-504. HUD Label Administration: The objective of this rule is to inform manufacturers about the administration fee charged by the Office for each HUD label issued in Arizona. This provides transparency to manufacturers regarding the Office.

R4-34-505. Plans and Supplements: The objective of this rule is to establish a timeline for submitting corrections to plans or supplements. This provides notice to a licensee of the need to respond timely when informed a plan or supplement is incomplete or incorrect.

R4-34-506. Intergovernmental Agreement Permits: The objective of this rule is to establish a limit on the permit fee charged by local enforcement agencies participating in the Installation Inspection Program. This protects permit applicants by ensuring they are charged the same fee regardless of the jurisdiction enforcing requirements.

R4-34-601. Manufactured Homes: The objective of this rule is to require manufactured homes be built according to standards and regulations specified in R4-34-102. This protects consumers by establishing minimum standards for manufactured homes.

R4-34-603. Factory-built Buildings and FBB Subassemblies: The objective of this rule is to specify requirements for manufacturers of factory-built buildings and subassemblies and require that factory-built buildings and subassemblies be built according standards in R4-34-102. This protects consumers by establishing minimum standards for manufactured homes.

R4-34-604. Alterations: The objective of this rule is to specify a dealer or broker is responsible for ensuring alterations are consistent with applicable standards and codes. This protects consumers by requiring alterations comply with minimum standards.

R4-34-605. Reconstruction: The objective of this rule is to specify a manufacturer is required to perform reconstruction in a manner consistent with applicable standards and codes. This protects consumers by requiring reconstruction comply with minimum standards.

R4-34-606. Rehabilitation of Mobile Homes: The objective of this rule is to establish requirements for rehabilitation of a mobile home, the issuance of a rehabilitation permit, and through inspection, ensure the appropriate certificate of compliance is issued. The requirements are designed to protect health and safety of consumers.

R4-34-607. Manufacturing Inspection and Certification: The objective of this rule is to ensure manufactured-home plant certification is conducted according to R4-34-102(1), and regular inspections of retailer lots are conducted to ensure compliance with approved plans, standards, and A.R.S. § 41-4048. Required inspections and certifications are designed to protect consumers.

R4-34-701. General: The objective of this rule is to establish requirements with which a manufacturer, retailer, or installer must comply regarding plans, drawings, and specifications that must be submitted for approval by the Office. Obtaining approval ensures compliance with minimum standards and protects consumers.

R4-34-702. Quality Assurance Manuals: The objective of this rule is to specify a manufacturer of manufactured homes is required to prepare a quality assurance manual that includes appropriate charts detailing quality control personnel, in-plant inspection requirements, descriptions of tests performed and test equipment, and other quality assurance materials. The rule also contains similar requirements for manufacturers of factory-built buildings and subassemblies. Quality assurance standards protect consumers.

R4-34-703. Drawings and Specifications: The objective of this rule is to specify a manufacturer of manufactured homes is required to submit drawings and specifications, and a manufacturer of factory-built buildings and FBB subassemblies is required to submit plans that comply with applicable requirements and standards in accordance with R4-34-102(1) and (2). Compliance with minimum standards protects consumers.

R4-34-704. Alterations or Reconstruction: The objective of this rule is to establish procedures for sending notification of an alteration of a unit, ensure manufactured home plans comply with construction and safety standards specified in R4-34-102(1), and reconstruction plans comply with standards in R4-34-102(2). These requirements are designed to protect consumers.

R4-34-705. Accessory Structures and Ground Anchoring: The objective of this rule is to require installers to comply with applicable building codes when preparing accessory structure plans and have ground anchoring plans certified by an appropriate Arizona registered professional. These requirements are designed to protect consumers.

R4-34-706. Factory-built Building Installation: The objective of this rule is to require installers to complete and submit an application form obtained from the Department and include in installation plans, site and foundation plans and electrical and plumbing drawings. These requirements are designed to protect consumers.

R4-34-801. Permits: The objective of this rule is to require a licensee or consumer to obtain a permit for the installation of a manufactured home, mobile home, factory-built building, accessory structure, or rehabilitation of a mobile home before beginning work and to display the permit in a conspicuous place onsite. These requirements are designed to protect consumers.

R4-34-802. General Installation: The objective of this rule is to establish procedures for affixing the appropriate approval insignia to each unit in the approved location and to require installers and contractors to check with local jurisdictions regarding frost line requirements and to join the sections of a multi-sectional manufactured home according to manufacturer's instructions. These requirements are designed to protect consumers.

R4-34-803. Soil and Materials: The objective of this rule is to require an installer or contractor to ensure the preparation necessary to make the site compatible with the appropriate unit is performed properly by a qualified and licensed professional and establish minimum standards for securing the unit. These requirements are designed to protect consumers.

R4-34-804. Utilities: The objective of this rule is to require an installer or contractor not to enter into an agreement to connect utility service facilities that are not compatible with the

units, and to connect and install all utility services in compliance with the appropriate building codes and standards. These requirements are designed to protect consumers.

R4-34-805. Accessory Structures: The objective of this rule is to require an installer or contractor to comply with applicable standards incorporated by reference in R4-34-102(3) when installing, assembling, or constructing accessory structures.

R4-34-1001. Rehearing or Review: The objective of this rule is to specify the procedures for requesting a rehearing or review of a decision by the Director. This enables a licensee to know how to exhaust the licensee's administrative remedies.

3. Effectiveness of the rule in achieving the objective including a summary of any available data supporting the conclusion:

The Board believes the rules are effective in achieving their objectives. The Board bases this conclusion on the fact it is able to fulfill its statutory responsibilities.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency:

Except for the incorrect internal cross references caused by recodification of the Board's statutes, the rules are consistent with statute and the federal laws referenced in item 12.

In July 2012, the state's trust and escrow laws changed in a manner inconsistent with the business practices of some licensees. The law requires all monies related to the sale of all new and used homes with a sale price of \$50,000 or more be deposited with a title or escrow company to protect the consumer. The law applies to new and used manufactured homes. The law, which is mirrored in A.R.S. § 41-4030, is clear but many licensees appear not to understand its application to manufactured homes. As a result, they are cited for violation of statute when they continue the practice of depositing monies in a bank account held by the licensee.

5. Agency enforcement policy including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement:

The Board is able to enforce the rules as written.

6. Clarity, conciseness, and understandability of the rule:

The Board believes the rules are generally clear, concise, and understandable. However, as previously indicated all internal cross references are incorrect and may be a source of confusion. Also, in response to direction from the Governor's office, the Board prepared a review of its rules. That review, which informed this report, identified numerous changes the Board believes will improve the clarity, conciseness, and understandability of the rules. A copy of that review is attached to and incorporated into this report.

7. Summary of written criticisms of the rule received by the agency with the past five years, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods, and, written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute or beyond the authority of the agency to enact, and the result of the litigation of administrative proceedings:
No criticism was received by the Board.
8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule:

The Board believes that the economic, small business, and consumer impact statements prepared for the four rulemakings completed since 1999 were generally accurate.

1999 Rulemaking

The rules that have not been amended since 1999 are: R4-34-104, R4-34-301, R4-34-302, R4-34-303, R4-34-503, R4-34-504, R4-34-505, R4-34-506, R4-34-605, R4-34-802, and R4-34-1001.

This rulemaking was done primarily to "clean-up" the rules, clarifying and making the rules more user-friendly. Only two substantive additions to the rules were made during this rulemaking. The first, in R4-34-301 and R4-34-303, required licensees to provide copies of transaction documents and closing statements to buyers and sellers of manufactured or mobile homes in brokered transactions. There is a cost involved in providing copies of documents but it is a cost of doing business designed to protect buyers and sellers. The

second addition addressed the responsibility for site preparation when contracting for an installation of a manufactured or mobile home, specifying that under R4-34-803, the entity contracting for installation is the responsible party when it comes to site compatibility.

2005 Rulemaking

The rules that have not been amended since 2005 are: R4-34-202, R4-34-502, R4-34-604, and R4-34-606.

This rulemaking primarily implemented a statutory change made in 2003. The change removed recreational vehicles from the regulatory authority of the Department of Fire, Building, and Life Safety. R4-34-202, R4-34-604, and R4-34-606 were amended to remove reference to recreational vehicles. In R4-34-502, bonds were deleted for license classes M-9D and D-9, increased for classes D-10 and D-12, and created for the new class D-8.

Maintaining a bond is a cost of doing business intended to protect consumers.

2008 Rulemaking

In the 2008 rulemaking, R4-34-201, R4-34-203, R4-34-204, R4-34-401, R4-34-402, and R4-34-501 were amended to reflect changes resulting from the 2006 Legislative session when the title of “Assistant Director” was changed to “Deputy Director.” Minor grammar and punctuation changes were also made. R4-34-701 and R4-34-705 were amended to clarify cross references in certain subsections resulting from the removal of authority to regulate recreational vehicles. Some grammar and minor punctuation changes were also made.

2012 Rulemaking

The rules that have not been amended since 2012 are: R4-34-101, R4-34-102, R4-34-103, R4-34-601, R4-34-602, R4-34-603, R4-34-607, R4-34-702, R4-34-703, R4-34-704, R4-34-706, R4-34-801, R4-34-803, R4-34-804, and R4-34-805.

Definitions in R4-34-101 were amended to provide clarity and to correct language. R4-34-102 was amended to clarify and correct language and update and add materials incorporated by reference to the most current standards. R4-34-103 was amended to clarify and update language for exceptions made to R4-34-102. Additionally, Sections R4-34-601, R4-34-603, R4-34-607, R4-34-702, R4-34-703, R4-34-704, and R4-34-706 were amended to clarify and correct language based on amendments made to R4-34-102. Sections R4-34-801, R4-34-

803, R4-34-804, and R4-34-805 were amended to clarify and correct language, and correct errors to statutory references based on amendments made to R4-34-102.

In FY2016, the volume of HUD homes produced in Arizona increased after a period of decrease. There was a 16.2 percent increase from the previous year. There has been a steady increase since 2011. This is evidence manufactured homes play a vital role in the Arizona's and the nation's housing market providing affordable housing for many. The tightening credit market is a challenge to increasing sales of manufactured homes.

Under A.R.S. § 41-4010(C), the Board's fees for licenses, permits, inspections, plan reviews and administrative functions are exempt from the rulemaking provisions of the Administrative Procedure Act. The Board is required to establish fees at a rate that generates at least 95 percent and no more than 105 percent of anticipated expenditures for the Office. The Board adopts a fee schedule annually. Its FY2016 fee schedule generated 103 percent of anticipated expenditures.

The Department currently licenses 63 manufacturers (including out-of-state manufacturers who ship homes and buildings into Arizona and are registered with the Arizona Corporation Commission as a foreign corporation doing business in Arizona), 232 dealers, 653 salespersons, and 86 installers. The manufacturers in Arizona employ 987 individuals. During FY 2016, the Department issued 247 new licenses, complying with its licensing time-frames by issuing licenses in an average of two days.

Under A.R.S. § 41-4005, plans for the construction of any factory-built building or home must be submitted to the Office for review for compliance with the applicable codes. If the plan is determined to be in compliance, a permit is issued and construction is authorized. In FY 2016, 582 plans were submitted to the Office for review and 1,216 permits were issued. Additionally, the Office conducted 2,706 inspections.

With regard to complaints and citations, the Office received 48 complaints regarding licensees in FY 2016. Most of the 30 consumer complaints alleged manufacturers, dealers, or

installers failed to provide all goods and services or failed to manufacture or install in a workmanlike manner. Eighteen complaints against manufacturers arose during an inspection of the plant or resulted from a national recall. Only one complaint went to hearing. The others were settled without hearing. The Office issued 18 cease and desist orders regarding unlicensed activity. The Board took disciplinary action against 17 licensees.

In FY2016, the Office collected \$1,145,920 in fees. Its budget, which is a combination of fees deposited into the general fund and non-appropriated funds, was \$1,292,989. The general fund appropriation was \$868,534. There are currently 15 FTEs.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

No analysis was submitted.

10. How the agency completed the course of action indicated in the agency's previous 5YRR:

In a five-year-review report approved by the Council on October 2, 2012, the Board indicated it would amend R4-34-303(B) to correct an error. The subsection incorrectly says "seller's broker" rather than "purchaser's broker." The Board did not complete the planned rulemaking because the Board determined the possible confusion caused by the error was not sufficient to justify the expense of doing a rulemaking. Additionally, the Board understood a major revision of the rules would be done soon and the error could be corrected at that time.

11. A determination after analysis that the probable benefits of the rule outweigh within this state the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Board determined the probable benefits of the rules outweigh their probable costs and the rules impose the least burden and costs to regulated persons necessary to achieve the underlying regulatory objective

The rules support the Department's purpose and commitment to maintain standards of safety for manufactured homes, mobile homes, and factory-built-buildings by reducing hazards to life and property, and to protect consumers of these products and services. The rules establish

the minimum standards that are compliant with federally adopted regulations and codes that are nationally recognized in the industry as best practices. The Board has determined any burden or cost of compliance is necessary to achieve the Department's mission of consumer safety. Any additional costs are not burdens imposed to regulated persons as those costs are passed on to the consumers of the products and services.

The fee schedule is established annually by the Board and is applicable to licensees engaged in the business of constructing the homes and buildings, selling the homes and buildings, and installing the homes and buildings. These licensees and Registrar of Contractors' licensees are required by statute to submit plans to the Office for approval when applicable, obtain a permit to install the home or building, and have their work inspected. The fee schedule is intended to recover the costs incurred by the Office in providing the required plan review, permit, and inspection. The fees are a cost of doing business and that probably is passed to consumers of these products and services.

12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:

The Board determined the rules are not more stringent than federal law. The Board ensured this by incorporating by reference 24 CFR 3280 through 3288 (2008), which establish standards for manufactured homes. Under contract with the US Department of Housing and Urban Development, the Department enforces the federal regulations regarding plant monitoring (24 CFR 3280 and 3282), installation inspection (24 CFR 3285 and 3286), and dispute resolution for consumers of manufactured homes (24 CFR 3288).

13. For a rule made after July 29, 2010, that requires issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037:

The following rules were made after July 29, 2010: R4-34-101, R4-34-102, R4-34-103, R4-34-601, R4-34-602, R4-34-603, R4-34-607, R4-34-702, R4-34-703, R4-34-704, R4-34-706, R4-34-801, R4-34-803, R4-34-804, and R4-34-805. The rules in Article 7 require obtaining plan approval. Those in Article 8 require permits for installation. These rules comply with A.R.S. § 41-1037 because they are issued to qualified individuals to conduct activities that are substantially similar in nature.

14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency

determines it is necessary to amend or repeal an existing rule or to make a new rule. If no issues are identified for a rule in the report, the agency may indicate that no action is necessary for the rule:

The Board intends amend some rules and repeal many of its rules. The need for this action was the Board's conclusion when it completed the previously mentioned rule review required by the Governor's office. In an e-mail dated May 1, 2017, Mara Mellstrom, Policy Advisor in the Governor's Office, granted the Board an exemption from EO2017-02. The Board anticipates completing the rulemaking by June 30, 2018.

RULES REVIEW

		Repeal – 181				Added – 26			
R4-34 Subsection	Current Rule	No change	Modify	Repeal	Add	Modified or Added Language	Comments	Rules Moratorium Justification	
101	The definitions in A.R.S. §§ 41-2142, 41-2152, and 41-2157 apply to this Chapter. Additionally, in this Chapter:	X						N/A	
101 (1)	"Act" means the Manufactured Housing Improvement Act of 2000, which is Title VI of the American Homeownership and Economic Opportunity Act of 2000.	X						N/A	
101 (2)	"Agency" means, in a brokered transaction, the consensual relationship that exists between an agent and the seller or purchaser of a used home when either the purchaser or seller authorizes the agent and the agent agrees to the authorization in writing. A licensed salesperson may establish an agency relationship on behalf of the salesperson's licensed and employing retailer.		X			"Agency" means that the seller or purchaser of a used home has given a licensed salesperson written legal authority to act on behalf of the seller or purchaser when dealing with a third party, which is also binding on the salesperson's licensed and employing retailer.	Clarifying language	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	
101 (3)	"Agency disclosure" means a document that specifies the party or parties that an agent represents in a brokered transaction as a seller's agent, purchaser's agent, or dual agent who represents both the seller and purchaser.		X			"Agency disclosure" means a document that specifies the person(s) the licensed salesperson and/or licensed retailer represents in a brokered transaction.	Clarifying language	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	
101 (4)	"Agent" means a licensed retailer or broker who is authorized to act on behalf of either the seller or purchaser of a used home or as a dual agent representing both.		X			"Agent" means a licensed retailer authorized to act on behalf of a seller and/or purchaser of a used home.	Clarifying language	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	
101 (5)	"Branch location" means an office, unit, station, facility, or space at a fixed location other than a principal office, however designated, at which any business that may be conducted at the principal office is transacted.		X			"Branch location" means a satellite office, in addition to the principal office, where business may be transacted.	Clarifying language	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	
101 (6)	"Brokered transaction" means a transaction in which a properly licensed broker acts as an agent for the seller, purchaser, or both.	X						N/A	
					X	"Certificate" means Arizona Insignia of Approval. Certificates are required for modular manufacture, installation, reconstruction, and rehabilitation work.	Add as 101 (7)	2B New Statutory Term re:1218	
101 (7)	"Co-brokered transaction" means a transaction in which the listing retailer and the selling retailer are not the same person.		X				Reenumber to 101 (8)	N/A	
					X	"Commercial" means those factory-built buildings with a Use Occupancy Classification other than single-family dwelling.	Add as 101 (9)	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	
					X	"Construction Office/Trailer" means a factory-built building ("FBB") used only as a construction site project office by construction superintendents, foremen, and trade workers.	Add as 101 (10)	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	
					X	"Consummation of sale" , defined in A.R.S. § 41-4001, includes filing an Affidavit of Affixture, as applicable.	Add as 101 (11)	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	
101 (8)	"FBB" means factory-built building.	X					Renumber to 101 (12)	N/A	
					X	"Field installed" means components, equipment, and/or construction that is to be completed and/or installed at the site. Field installed does not include reconstruction.	Add as 101 (13)	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	
					X	"HVAC"	Add as 101 (14)	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	
101 (9)	"Lease with option to purchase" means a lease under which the lessee has the right to purchase the leased property for a specified price and terms.		X			"Lease with option to purchase" means a lease that grants a lessee the right to purchase the leased home for a specified price and terms.	Renumber to 101 (15)	N/A	
					X	"Modular" means an FBB.	Add as 101 (16)	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	
101 (10)	"New" means a unit or subassembly not previously sold, bargained, exchanged, or given away to a purchaser.	X					Renumber to 101 (17)	N/A	
101 (11) A11	"Offer to purchase in a brokered transaction" means a written proposal to purchase a used home listed for sale that a broker presents to the seller for acceptance or rejection.		X			"Offer to purchase in a brokered transaction" means a written offer to purchase a used home listed for sale that a retailer presents to the seller.	Renumber to 101 (18)	N/A	
101 (12)	"Open subassembly" means that the components of the subassembly can be readily inspected without being disassembled.			X				2B (Removes obsolete terminology)	
					X	"Permanent installation" means an FBB that may be open to the public and will be installed for six months or longer at a designated site.	Add as 101 (19)	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	
101 (13) A36	"Permanent foundation" means a system of support and perimeter enclosure of crawl space that is: a. Constructed of durable materials (e.g., concrete, masonry, steel, or treated wood); b. Developed in accordance with the manufacturer's installation instructions or designed by a licensed professional engineer; c. Attached in a manner that effectively transfers all vertical and horizontal design loads that could be imposed on the structure by wind, snow, frost, seismic, or flood conditions, as applicable, to the underlying soil or rock; d. Designed to exclude unwanted elements and varmints, ensure sufficient ventilation, and provide adequate access to the building; and e. Not anchoring straps or cable affixed to ground anchors other than footings.	X					Renumber to 101 (20)	N/A	
101 (14)	"Purchase contract in a brokered transaction" means a written agreement between a purchaser and seller of a used home that indicates the sales price and terms of the sale.	X					Renumber to 101 (21)	N/A	
101 (15)	"Reconstruction" means construction work performed on a manufactured home, mobile home, or factory-built building for the purpose of restoring the unit to a usable condition, but does not include work limited to remodeling, replacing, or repairing appliances or components that will not significantly alter the systems or structural integrity of the living area.			X				2B (Removes obsolete terminology)	
					X	"Repair" means work performed on a manufactured home, mobile home, or FBB to restore the building to a habitable condition that does not impact the original structure, electrical, plumbing, HVAC/mechanical, use occupancy, or energy design.	Add as 101 (22)	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	
					X	"Residential" means buildings with a Use Occupancy of single family dwelling, or as governed by the International Residential Code.	Add as 101 (23)	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)	

101 (16)	"Respond" means to furnish the Office of Manufactured Housing or Office of Administration with a written explanation detailing any reasons why a complaint is not justified or the signature of the complainant indicating that the complaint is satisfied with the resolution of the verified complaint.					"Respond" means to furnish the Department with a written explanation of why a complaint is not justified or a written statement describing how the complaint has been satisfied.	Renumber to 101 (24)	N/A
101 (17)	"Retailer" means a dealer or broker as prescribed at A.R.S. § 41-2142 (9) and (5).		X			"Retailer" means a retailer as prescribed in A.R.S. § 41-4001 (5) and (9).	Renumber to 101 (25)	N/A
				X		"Site" and "Site Work" mean the following: Site means a parcel of land bounded by a property line or a designated portion of a public right of way; and Site Work means soil preparation including soil analysis, grading, drainage, utility trenches, foundation systems preparation, and means field installed work, terminal and connections, on-site utility connections, accessibility structures, egress paths, parking, lighting and landscaping, etc.	Add as 101 (26)	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
101 (18)	"Standards" means the materials incorporated by reference in R4-34-102.	X					Renumber to 101 (27)	N/A
101 (19)	"Supplement" means a submittal of not more than two sheets of paper that indicates floor plan dimensional sizes, does not change more than 25% of a system or configuration, and is incorporated as part of an originally approved plan.		X				Renumber to 101 (28)	N/A
101 (20)	"Technical services" means engineering assistance and interpretative application or clarification of compliance and enforcement of A.R.S. Title 41, Chapter 16, Articles 1, 2, and 4 and this Chapter.		X				Renumber to 101 (29)	N/A
				X		"Temporary" means an FFB that may be open to the public and will be installed for less than six months at a designated site.	Add as 101 (30)	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
101 (21)	"Typical plan" means a design plan that may be duplicated numerous times.	X					Renumber to 101 (31)	N/A
101 (22)	"Used home" means a used unit that is a previously titled manufactured home, mobile home, or FBB designed for use as a residential dwelling.	X					Renumber to 101 (32)	N/A
102	Materials Incorporated by Reference The following materials, which the Board incorporates by reference, apply to this Chapter. The materials, which include no later amendments or editions, are available from the Board. If there is a conflict between the incorporated material and a statute or rule, the statute or rule controls.		X			Materials incorporated by reference: <u>HUD Manufactured Housing Program</u> a. 24 CFR 3280, Manufactured Home Construction and Safety Standards, April 1, 2009, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov. b. 24 CFR 3282, Manufactured Home Procedural and Enforcement Regulations, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov. c. 24 CFR 3284, Manufactured Housing Program Fee, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov. d. 24 CFR 3285, Model Manufactured Home Installation Standards, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov. e. 24 CFR 3286, Manufactured Home Installation Program, April 1, 2009, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov. f. 24 CFR 3288, Manufactured Home Dispute Resolution Program, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov. <u>Factory-built Building Program</u> a. International Building Code (IBC), 2009 edition, available from the International Code Council, 430 North Dearborn Street, Chicago, IL 60610.		2B (Consolidates Rules)
102 (1)	HUD Manufactured Housing Program a. 24 CFR 3280, Manufactured Home Construction and Safety Standards, April 1, 2009, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov. b. 24 CFR 3282, Manufactured Home Procedural and Enforcement Regulations, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov. c. 24 CFR 3284, Manufactured Housing Program Fee, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov. d. 24 CFR 3285, Model Manufactured Home Installation Standards, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov. e. 24 CFR 3286, Manufactured Home Installation Program, April 1, 2009, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov. f. 24 CFR 3288, Manufactured Home Dispute Resolution Program, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov.			X		Repeat: consolidate into 102, above.		2B

102 (2)	<p>Factory-built Building Program</p> <p>a. International Building Code (IBC), 2009 edition, available from the International Code Council, 4051 Flossmoor Road, Country Club Hills, IL 60478;</p> <p>b. International Residential Code (IRC), 2009 edition, available from the International Code Council, 4051 Flossmoor Road, Country Club Hills, IL 60478;</p> <p>c. International Mechanical Code (IMC), 2009 edition, available from the International Code Council, 4051 Flossmoor Road, Country Club Hills, IL 60478;</p> <p>d. International Plumbing Code (IPC), 2009 edition, available from the International Code Council, 4051 Flossmoor Road, Country Club Hills, IL 60478;</p> <p>e. International Fuel Gas Code (IFGC), 2009 edition, available from the International Code Council, 4051 Flossmoor Road, Country Club Hills, IL 60478;</p> <p>f. International Energy Conservation Code (IECC), 2009 edition, available from the International Code Council, 4051 Flossmoor Road, Country Club Hills, IL 60478; and</p> <p>g. National Electrical Code (NEC), 2008 edition, available from the National Fire Protection Association, One Batterymarch Park, Quincy, MA 02169.</p>				X		Repeal: consolidate into 102, above.		2B
102 (3)	<p>Installation, Foundation, and Accessory Structures</p> <p>a. Materials incorporated in subsections (1) and (2); and</p> <p>b. Protecting Manufactured Homes from Floods and Other Hazards, publication 85, second edition, November 2009, available from the Federal Emergency Management Agency, 500 C. St. SW, Washington, D.C. 20472 or www.fema.gov.</p>				X		Repeal: consolidate into 102, above.		2B (Consolidates Rules)
103	Exceptions	X							N/A
103 (A)	<p>The Board makes the following exceptions to the materials incorporated by reference in R4-34-102:</p> <p>1. International Building Code and International Residential Code. A water or gas connection may be a flexible connector if the flexible connector:</p> <p>a. Is not more than 6 feet long;</p> <p>b. Is of the rated size necessary to supply the total demand of the unit; and</p> <p>c. Made of materials that comply with the International Plumbing Code and International Fuel Gas Code; and</p> <p>2. International Residential Code. Exclude Section R313, Automatic Fire Sprinkler Systems.</p>	X							N/A
103 (B)	<p>Under A.R.S. § 41-2144 (D), a local jurisdiction may petition the Board for an exception to a standard. The local jurisdiction shall ensure that the petition for an exception:</p> <p>1. Specifies the standard or code sections affected;</p> <p>2. Justifies the requested exception with documented evidence of the local conditions that support the requested exception;</p> <p>3. Specifies the boundaries of the area affected by the local conditions;</p> <p>4. States why the exception is necessary to protect the health and safety of the public; and</p> <p>5. Provides an estimate of the economic impact that the requested exception will have on the petitioning jurisdiction, other affected governmental entities, the public, unit owners, and licensees, and the facts upon which the estimate is based.</p>		X				Under A.R.S. § 41-4010 (D), a local jurisdiction may petition the Board for an exception to a standard. The local jurisdiction, which shall be bound by any conditions in the exception order issued by the Board, shall ensure that the petition for an exception meets 1 - 5 below: <p>1. Specifies the standard or code sections affected;</p> <p>2. Justifies the requested exception with documented evidence of the local conditions that support the requested exception;</p> <p>3. Specifies the boundaries of the area affected by the local conditions;</p> <p>4. States why the exception is necessary to protect the health and safety of the public; and</p> <p>5. Provides an estimate of the economic impact that the requested exception will have on the petitioning jurisdiction, other affected governmental entities, the public, unit owners, and licensees, and the facts upon which the estimate is based.</p> <p>6. Such exception ordered by the Board applies only within the local jurisdiction.</p> <p>7. An exception order is effective on the date specified in the order, which will be at least 60 days after a Departmental Substantive Policy has been issued to all licensed installers describing the exception, the area within which it applies, and any provisions applicable to its use.</p>		2B (Consolidates Rules)
103 (C)	An exception ordered by the Board applies only within the jurisdiction that petitioned for the exception. The jurisdiction shall comply with any conditions specified in the exception order.				X		Repeal: language added in (B), above.		2B (Consolidates Rules)
103 (D)	An exception order is effective on the date specified in the order, which will be at least 60 days after a Departmental Substantive Policy has been issued to all licensed installers describing the exception, the area within which it applies, and any provisions applicable to its use.				X		Repeal: language added in (B), above.		2B (Consolidates Rules)
104	Workmanship Standards				X			Covered by code adoption in R4-34-102	2B
104 (A)	All work shall be performed in a professional manner.				X				2B
104 (B)	All work shall be performed in accordance with any applicable building code and professional industry standards.				X				2B
104 (C)	If there is a conflict between professional standards and building code requirements, the latter will prevail.				X				2B
201	General	X							N/A

201 (A)	An administrative review of the application shall be performed within five business days of receipt of an application. The Deputy Director shall issue a conditional license within 14 business days of the Department's receipt of the completed license application and written evidence that the applicant has passed any required license examination. The five day administrative completeness and 14 day substantive review time-frames provide an overall time-frame of 19 days excluding time requirements that are the responsibility of the applicant.		X		Within five business days of receipt, the Department will perform an administrative review of an application, and if incomplete, the applicant is required to provide sufficient information to fully complete the application. Within 14 business days following the receipt of a fully completed application and the applicant has passed any required license examination, the Department shall issue a conditional license.	Clarifying language	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
201 (B)	Corporate applicants shall submit a copy of the articles of incorporation, and all amendments to the articles filed with the Arizona Corporation Commission, or, if a foreign corporation, the application for authority to transact business.		X		Corporate applicants shall submit a copy of their organizational documents, including articles of incorporation or organization, with all amendments, filed with the State, as applicable, and a certificate of good standing to transact business in the State.	Clarifying language	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
201 (C)	When a retailer or installer licensee changes its legal entity but remains within the scope of the license and retains the same qualifying party, the licensee may request an exemption from any applicable testing requirement, provided the license is in good standing.		X		An exemption to any applicable testing requirement may be granted if the new license application identifies the same license classification and the same qualifying party listed on a previously held license, provided the previous license was in good standing before it expired.	Clarifying language	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
201 (D)	Upon receipt and review of the applicant's criminal background analysis by the Deputy Director of the Office of Administration, and upon mailing notification to the applicant, the previously issued conditional license is automatically effective as a permanent license to transact business within the scope of the license.		X		A licensee will be given notice that a conditional license is automatically effective as a permanent license to transact business within the scope of the license following review and approval by the Department of the licensee's criminal background analysis.	Clarifying language	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
				X	Unless otherwise stated in the purchase contract, a retailer selling a mobile home, manufactured home or FBB is required to know the ordinances of the town, city or county where the unit is to be installed, regardless of whether the retailer is obligated to provide for the delivery or installation of the unit.	Add as 201 (E)	2H (Protects consumers. Dealers who sell homes to customers to be delivered to local areas with ordinances regarding roof load requirements for snow load and other issues. Dealers have a responsibility to inform customers as there may be additional costs associated with complying with the local ordinances.
202	Manufacturers The Department shall place a manufacturer's license application into one of the following license classes, based on the listed activities that limit the scope of each class:		X		Manufacturer's license applications fall into one of the following license classes: - M-9A Manufacturer of FBB, Manufactures and/or reconstructs FBBs+H64 - M-9C Manufacturer of Manufactured Homes. Manufactures and/or reconstructs manufactured homes - M-9E Master Manufacturer performs work within the scope of classes M-9A and M-9C		2B (Consolidates Rules)
202 (1)	M-9A Manufacturer of Factory-Built Buildings and FBB Subassemblies			X	Repeal: language added in 202, above.		2B (Consolidates Rules)
202 (1) (a)	Manufactures factory-built buildings and FBB subassemblies, or			X	Repeal: language added in 202, above.		2B (Consolidates Rules)
202 (1) (b)	Reconstructs factory-built buildings and FBB subassemblies.			X	Repeal: language added in 202, above.		2B (Consolidates Rules)
202 (2)	M-9C Manufacturer of Manufactured Homes.			X	Repeal: language added in 202, above.		2B (Consolidates Rules)
202 (2) (a)	Manufactures manufactured homes.			X	Repeal: language added in 202, above.		2B (Consolidates Rules)
202 (2) (b)	Reconstructs manufactured homes.			X	Repeal: language added in 202, above.		2B (Consolidates Rules)
202 (3)	M-9E Master Manufacturer: Performs work within the scope of classes M-9A and M-9C			X	Repeal: language added in 202, above.		2B (Consolidates Rules)
203	Retailers The Department shall place a retailer's license application into one of the following license classes, based on the activities that limit the scope of each class:		X		Retailer's license applications fall into one of the following license classes: <u>D-8 Retailer of manufactured or mobile homes</u> - Buys, sells or exchanges new or used manufactured homes and new mobile homes; - May sell new or used accessory structures included in the sales agreement; - Acts as an agent for the sale or exchange of used manufactured homes or mobile homes that may include existing or new accessory structures included in the sales agreement; - Makes alterations to new manufactured homes before a sale to a purchaser; - Contract with properly licensed installers or contractors for the installation of manufactured homes, mobile homes and existing or new accessory structures included in the sales agreement. <u>D-8B Broker of manufactured or mobile homes</u> - Acts as an agent for the sale or exchange of used manufactured homes or mobile homes that may include existing or new accessory structures included in the sales agreement; - Contracts with properly licensed installers or contractors for the installation of used manufactured homes and mobile homes that may include existing or new accessory structures included in the sales agreement. <u>D-10 Retailer of FBBs</u> - Buys, sell or exchanges new or used FBBs; - Acts as an agent for the sale or exchange of new or used FBBs; - Makes alterations to new FBBs; - Contracts with properly licensed installers or contractors for the installation of FBBs or residential single-family FBBs, including any accessory structure included in the sales agreement. <u>D-12 Master Retailer: Performs work within the scope of classes D-8, D-8B, and D-10.</u>		2B (Consolidates Rules)
203 (1)	D-8 Retailer of Manufactured Homes or Mobile Homes:			X			2B (Consolidates Rules)
203 (1) (a)	Buy, sell, or exchanges new or used manufactured homes, mobile homes, or accessory structures.			X	Buy, sell, or exchanges new or used manufactured homes and mobile homes, including any accessory structure included in the sales agreement.		2B (Consolidates Rules)
203 (1) (b)	Acts as an agent for the sale or exchange of used manufactured homes, mobile homes, or accessory structures.			X	Acts as agent for the sale or exchange of used manufactured homes or mobile homes, including any accessory structure included in the sales agreement.		2B (Consolidates Rules)
203 (1) (c)	Makes alterations to new manufactured homes before a sale to a purchaser under R4-34-604 or			X	No suggested change.		2B (Consolidates Rules)
203 (1) (d)	Contracts with properly licensed installers or contractors for the installation of manufactured homes, mobile homes, or accessory structures.			X	Contracts with properly licensed installers or contractors for the installation of manufactured homes or mobile homes, including an accessory structure included in the sales agreement.		2B (Consolidates Rules)
203 (2)	D-8B Broker of Manufactured Homes or Mobile Homes:			X			2B (Consolidates Rules)
203 (2) (a)	Acts as an agent for the sale or exchange of used manufactured homes or mobile homes, or			X	Acts as an agent for the sale or exchange of used manufactured homes or mobile homes, including any accessory structure included in the sales agreement.		2B (Consolidates Rules)
	or						
203 (2) (b)	Contracts with properly licensed installers or contractors for the installation of manufactured homes, mobile homes, or accessory structures.			X	Contracts with properly licensed installers or contractors for the installation of used manufactured homes, mobile homes, including any accessory structure included in the sales agreement.		2B (Consolidates Rules)
203 (3)	D-10 Retailer of Factory-Built Buildings and FBB Subassemblies:			X			2B (Consolidates Rules)
203 (3) (a)	Buy, sell, or exchanges new or used factory-built buildings and FBB subassemblies.			X			2B (Consolidates Rules)

203 (3) (b)	Acts as an agent for the sale or exchange of new or used factory-built buildings and FBB subassemblies.				X	Acts as an agent for the sale or exchange of new or used FBBs, including any accessory structure included in the sales agreement.		2B (Consolidates Rules)
203 (3) (c)	Makes alterations to new factory-built buildings and FBB subassemblies before a sale to a purchaser.				X	Makes alterations to new FBBs before a sale to a purchaser under R4-34-604.		2B (Consolidates Rules)
203 (3) (d)	Contractors with properly licensed installers or contractors for the installation of factory-built buildings, FBB subassemblies, and residential single-family factory-built buildings, or accessory structures.				X	Contracts with properly licensed installers or contractors for the installation of FBBs or residential single-family FBBs, including any accessory structure included in the sales agreement.		2B (Consolidates Rules)
203 (4)	D-12 Master Retailer: Performs work within the scope of classes D-8, D-9B, and D-10.				X			2B (Consolidates Rules)
204	Installers	X						N/A
204 (A)	The Department shall place an installer's license application into one of the following license classes, based on the activities that limit the scope of each class:		X			The Department shall plan an installer's license application into one of the following license classes, based on the applicant's application:		2B and 2H (Under current rule the department determines license class based on activities of installer: modification allows review of applicants application).
204 (A) (1)	I-10C General Installer of Manufactured Homes, Mobile Homes, or Residential Single-Family FBB:	X						N/A
204 (A) (1) (a)	Installs manufactured homes, mobile homes, or residential single-family FBB on foundation systems:	X						N/A
204 (A) (1) (b)	Installs ground anchors and tie down manufactured homes or mobile homes:		X			Installs ground anchors on manufactured homes or mobile homes and residential single-family factory-built buildings.		2B & 2C
204 (A) (1) (c)	Connects water, sanitary waste, gas, and electrical systems of all apertages to the proper onsite utility terminals provided by others:	X						N/A
204 (A) (1) (d)	Installs evaporative coolers and cooler systems on manufactured homes, mobile homes, or residential single-family factory-built buildings:		X			Installs evaporative cooler systems on manufactured homes, mobile homes, or residential single-family FBBs, including providing roof jack to cooler ducts, installing exterior duct work, providing electrical service and controls to cooler from nearest supply source, providing water to the cooler from nearest fresh water source, performing manufacturer's warranty work, performing repair work.		2B (Consolidates Rules)
204 (A) (1) (e)	Installs roof jack to cooler ducts:				X	Repeal: language added in (A) (1) (d), above.		2B (Consolidates Rules)
204 (A) (1) (f)	Installs duct work:		X				Renumber as 204 (A) (1) (e)	N/A
204 (A) (1) (g)	Provides electrical service and controls to cooler from nearest supply source:				X	Repeal: language added in (A) (1) (d), above.		2B (Consolidates Rules)
204 (A) (1) (h)	Provides water to the cooler from the nearest fresh water source, or				X	Repeal: language added in (A) (1) (d), above.		2B (Consolidates Rules)
204 (A) (1) (i)	Performs work as indicated under manufacturer's warranty for the unit.				X	Repeal: language added in (A) (1) (d), above.		2B (Consolidates Rules)
					X	Performs repair work, replaces or newly installs to existing mobile homes, manufactured homes, and residential single-family FBB items as through e above.	Expands business opportunities for licensed installers. Add as 204 (A) (1) (f)	2A
					X	May subcontract to properly licensed entities for the installation of mobile homes, manufactured homes, or residential single-family factory-built buildings. May also subcontract to properly licensed entities for the installation of accessory structure(s) in conjunction with the installation of a home.	Expands business opportunities for licensed installers. Add as 204 (A) (1) (g)	2A
204 (A) (2)	I-10D Installer of Accessory Structures attached to Manufactured Homes, Mobile Homes, or Residential Single-Family Factory-Built Buildings:	X				I-10D Installer of Accessory Structures attached to manufactured homes, mobile homes, or residential single-family FBBs, including installation of prefabricated accessory structure units, installation of on-site construction of accessory structures, installation of concrete footings or slabs for accessory structures, installation of plumbing, electrical, mechanical equipment, some or all of which may be performed through properly licensed installers or contractors.	Clarifying language	N/A
204 (A) (2) (a)	Installs prefabricated accessory structure units:				X	Repeal: language added in (A) (2), above		2B (Consolidates Rules)
204 (A) (2) (b)	Constructs accessory structures onsite:				X	Repeal: language added in (A) (2), above		2B (Consolidates Rules)
204 (A) (2) (c)	Places concrete footings or slabs for accessory structures; or				X	Repeal: language added in (A) (2), above		2B (Consolidates Rules)
204 (A) (2) (d)	Contracts with properly licensed contractors for the installation of plumbing, electrical, and mechanical equipment as part of an accessory structure and subcontracts all or any part of the items within this subsection to properly licensed installers or contractors.		X				Renumber to 204 (A) (2) (a)	N/A
204 (A) (3)	I-10G Master Installer of Manufactured Homes, Mobile Homes, or Residential Single-Family Factory-Built Buildings:		X			I-10G Master Installer is qualified to perform the work described in I-10C and I-10D and installs evaporative cooling units, HVAC systems, including electrical wiring, gas connections, and HVAC ductwork. Does not include service, maintenance, repair, or discharging, adding or reclaiming refrigerants or any other work that requires certification.	This will allow master installers to install the factory built buildings that are comparable to manufactured homes and mobile homes, for example - construction trailers.	2A
204 (A) (3) (a)	Performs work within the scope of classes I-10C and I-10D.				X	Repeal: language added in (A)(3), above		2B (Consolidates Rules)
204 (A) (3) (b)	Installs evaporative cooling units and refrigeration air conditioning units, or				X	Repeal: language added in (A)(3), above		2B (Consolidates Rules)
204 (A) (3) (c)	Subcontracts with properly licensed installers or contractors.				X	Repeal: language added in (A)(3), above		2B (Consolidates Rules)
204 (B)	Installer applicants. In addition to meeting the applicable requirements in subsections (A)(1) through (3), an applicant for an installer I-10C, I-10D, or I-10G license shall:	X						N/A
204 (B) (1)	Have a minimum of three years practical or field management experience in the specific type of installation, a related construction field, or the equivalent, for which the applicant is applying. At least two of the three years experience shall be within 10 years of the date of application. The applicant may substitute technical training in the specific type of installation, a related construction field, or the equivalent, from an accredited college or university or from a Department of Fire, Building and Life Safety workshop for no more than one year of the three years experience required in this subsection:		X					N/A
204 (B) (2)	Supply a written, notarized statement from each employer or other individual familiar with the applicant's employment or other work experience, which includes the name, address, and telephone number of the individual making the statement, the dates of the applicant's employment or other work experience, a description of the position held, and a notarial certificate, indicating that the signer vouches for the truthfulness of the statement as proof of meeting the experience requirement in subsection (B)(1); and		X					N/A
204 (B) (3)	Supply a certified copy of each official transcript or certificate, demonstrating successful completion of any technical training the applicant wishes the Department to consider as proof of meeting the experience requirement in subsection (B)(1).		X					N/A
301	Transaction Copies	X						N/A

301 (A)	In all retail transactions, the retailer shall provide the purchaser with completed and signed copies of all documents pertaining to the transaction.	X			<p>Retailers and brokers shall maintain records containing all transaction documents. In all transactions:</p> <ol style="list-style-type: none"> the retailer shall provide the purchaser with copies of all completed and signed documents; the broker shall provide the client(s) with copies of all completed and signed documents; where the purchaser is unrepresented, the listing retailer shall provide the purchaser with copies of all completed and signed documents; and in co-brokered transactions, the listing retailer shall provide a copy of the listing agreement to the selling retailer and the selling retailer shall provide a copy of all completed and signed documents to the listing retailer. 		N/A
301 (B)	In all brokered transactions, each broker shall provide the client with completed and signed copies of all documents pertaining to the transaction.			X	Repeal: language included above in 301 (A)		2B (Consolidates Rules)
301 (C)	In a brokered transaction where the purchaser is not represented by an agent, the listing broker shall provide the purchaser with completed and signed copies of all documents pertaining to the transaction.			X	Repeal: language included above in 301 (A)		2B (Consolidates Rules)
301 (D)	In a co-brokered transaction, the listing broker shall provide a copy of the listing agreement to the selling broker, and the selling broker shall provide a copy of all documents pertaining to the transaction to the listing broker.			X	Repeal: language included above in 301 (A)		2B (Consolidates Rules)
301 (E)	A retailer or broker shall maintain records containing all transaction documents.			X	Repeal: language included above in 301 (A)		2B (Consolidates Rules)
302	Advertising						N/A
302 (A)	A retailer or broker shall include the retailer's licensed business name in all advertising.		X		A retailer shall include the retailer's licensed business name in all advertising.		2B & 2H (Statutory changes language in SB 1218 regarding Broker) (The term "broker" is not a stand-alone definition. Arizona Administrative Code defines the term "Retailer" into three distinct types of retailers - D8 a retailer of manufactured homes; D8B a broker of used mobile and manufactured homes; and D10 a retailer of FBB.)
302 (B)	A broker shall not advertise or market a used home for more than the listed price.		X		A retailer shall not advertise or market a used home for more than the listed price.		2B & 2H (Statutory changes language in SB 1218 regarding Broker) (The term "broker" is not a stand-alone definition. Arizona Administrative Code defines the term "Retailer" into three distinct types of retailers - D8 a retailer of manufactured homes; D8B a broker of used mobile and manufactured homes; and D10 a retailer of FBB.)
303	Brokered Transactions	X					N/A
303 (A)	A broker shall provide a copy of the agency disclosure to the party or parties being represented.		X		A retailer shall provide a copy of the agency disclosure to the party or parties being represented.		2B & 2H (Statutory changes language in SB 1218 regarding Broker) (The term "broker" is not a stand-alone definition. Arizona Administrative Code defines the term "Retailer" into three distinct types of retailers - D8 a retailer of manufactured homes; D8B a broker of used mobile and manufactured homes; and D10 a retailer of FBB.)
303 (B)	The seller's broker shall place all earnest money deposits received in connection with a sales transaction in the broker's trust or escrow account in accordance with A.R.S. § 41-2180.		X		The seller's retailer shall place all earnest money deposits received in connection with a sales transaction in the retailer's trust or escrow account in accordance with A.R.S. § 41-4030, except as provided in the exception provision.	Clarifying language	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
303 (C)	Upon consummation of a brokered transaction, the seller's broker shall provide the seller with a closing statement that includes an accounting of all expenses charged to the seller, all pro rations, and all credits.		X		Upon consummation of a brokered transaction, the seller's retailer shall provide the seller with a closing statement that includes an accounting of all expenses charged to the seller, all pro rations, and all credits.		2B & 2H (Statutory changes language in SB 1218 regarding Broker) (The term "broker" is not a stand-alone definition. Arizona Administrative Code defines the term "Retailer" into three distinct types of retailers - D8 a retailer of manufactured homes; D8B a broker of used mobile and manufactured homes; and D10 a retailer of FBB.)
303 (D)	Upon consummation of a brokered transaction, the purchaser's broker shall provide the purchaser with a closing statement that includes an accounting of all expenses charged to the purchaser, all pro rations, and all credits.			X			2B
303 (E)	In a co-brokered transaction, the seller shall pay the commission shown on the listing agreement as the total commission.	X					N/A
303 (F)	The seller's broker shall prepare an addendum to the listing agreement if any of the terms of the listing agreement change. The seller's signature is required for the addendum to be valid. The addendum to the listing agreement shall reflect the date that the seller signs the addendum to the listing agreement.		X		The seller's retailer shall prepare an addendum to the listing agreement if any of the terms of the listing agreement change. The seller's signature is required for the addendum to be valid. The addendum to the listing agreement shall reflect the date that the seller signs the addendum to the listing agreement.		2B & 2H (Statutory changes language in SB 1218 regarding Broker) (The term "broker" is not a stand-alone definition. Arizona Administrative Code defines the term "Retailer" into three distinct types of retailers - D8 a retailer of manufactured homes; D8B a broker of used mobile and manufactured homes; and D10 a retailer of FBB.)
303 (G)	Should the seller elect to finance the unpaid balance reflected on the offer to purchase or purchase contract, the agent shall:	X					N/A
303 (G) (1)	Maintain evidence of the original portion of the purchase price being financed by the seller or agent, and	X					N/A
303 (G) (2)	Maintain evidence that the title has been transferred into the name of the purchaser and that the lienholder's position has been secured on the title.	X					N/A
401	Surety Bond Forms Manufacturers, installers, and retailers except brokers of manufactured homes, mobile homes, or residential single-family factory-built buildings, shall submit the applicable surety bond amount from the list in R4-34-502, with a form provided by the Office of Administration.		X		Manufacturers, installers, and retailers (except those with a D-8B license classification) shall submit a surety bond in the appropriate bond amount from the list in R4-34-502, on a surety bond form provided by the Department.		2B & 2H (Statutory changes language in SB 1218 regarding Broker) (The term "broker" is not a stand-alone definition. Arizona Administrative Code defines the term "Retailer" into three distinct types of retailers - D8 a retailer of manufactured homes; D8B a broker of used mobile and manufactured homes; and D10 a retailer of FBB.)
				X	<p>A rider to the bond is required for the following changes:</p> <ol style="list-style-type: none"> location of a licensee's principal place of business; business name; branch address; license classification; or bond amount. <p>The rider will include acceptance of claims for the former principle place of business or business name, or branch address or license classification.</p>	Add as 401 (A)	2B (Consolidates Rules)
402	Cash Deposits	X					N/A
402 (A)	Except for applicants exempt under R4-34-401, any applicant for a license or renewal of a license who desires to post cash in place of a commercial surety bond shall deposit the applicable amount with the Deputy Director of the Office of Administration using any one of the following payment methods:		X		Unless exempt under R4-34-401, applicants or licensees posting cash in lieu of a commercial surety bond shall pay by:		2B (Consolidates Rules)
402 (A) (1)	Cash Deposits			X	1. cash; or		2B (Consolidates Rules)
402 (A) (2)	Certified check payable to the State Treasurer			X	2. certified or cashier's check, bank money order or postal money order made payable to the State Treasurer;		2B (Consolidates Rules)
402 (A) (3)	Cashier's check payable to the State Treasurer			X	Cash deposits are not transferrable and shall be in the name of the applicant or licensee as it appears on the license application or issued license.		2B (Consolidates Rules)
402 (A) (4)	Bank money order payable to the State Treasurer, or			X	Repeal: language added to 402 (A), above		2B (Consolidates Rules)
402 (A) (5)	Postal money order payable to the State Treasurer.			X	Repeal: language added to 402 (A), above		2B (Consolidates Rules)

402 (B)	Upon the receipt by the Deputy Director of the Office of Administration of an order from any court for the payment of funds on deposit, the Deputy Director shall make payment according to the court order, at which time the license is suspended under A.R.S. § 41-2179, if applicable. In order to reinstate the license, the licensee shall return the cash deposit to the required balance or, as an alternative, file a commercial surety bond for the full amount and pay all applicable reinstatement fees.		X		Upon receipt of an order from a court of competent jurisdiction directing payment of funds on deposit, the Director shall make payment as directed, at which time the license is suspended pursuant to A.R.S. § 41-4029. To reinstate the license, the licensee shall return the cash deposit to the required balance or file a commercial surety bond for the full amount, and pay all applicable reinstatement fees.		2H (This change is a result of the consolidation of DFBLs into ADOH.)
402 (C)	The cash deposit is not transferable.			X	Repeal.		2B
402 (D)	The applicant shall make the cash deposit in the name of the applicant as it appears on the license application.			X	Repeal.		2B
402 (E)	The applicant may withdraw the cash deposit under the following circumstances:		X		The cash deposit may be withdrawn by the applicant or licensee, having the authority to do so, as follows: 1. the license is not issued to the applicant; 2. the license has been terminated, has expired, has been revoked, or has been voluntarily cancelled for a period of two years or more and there are no outstanding claims; 3. two years after a licensee files a commercial surety bond that replaces the cash deposit if there are no outstanding claims.		2B (Consolidates Rules)
402 (E) (1)	The license is not issued.			X	Repeal: language added to 402 (E), above		2B (Consolidates Rules)
402 (E) (2)	The license has been terminated for two years or more by expiration, revocation, or voluntary cancellation, and there are no outstanding claims against the deposit; and			X	Repeal: language added to 402 (E), above		2B (Consolidates Rules)
402 (E) (3)	Two years after an applicant files a commercial surety bond as a replacement for the cash deposit, if there are no outstanding claims.			X	Repeal: language added to 402 (E), above		2B (Consolidates Rules)
402 (F)	Upon written request and subsequent approval by the Deputy Director of the Office of Administration, a cash deposit may be withdrawn by the owner of a sole proprietorship, any partner of a partnership, any person with written evidence of authority to withdraw the cash deposit for a corporation, and any other person who can establish legal right to the cash bond.			X	Repeal: language added to 402 (E), above		2B (Consolidates Rules)
501 (A)	The Board shall establish a fee schedule before May 15 for the coming fiscal year.	X					N/A
501 (B)	The Deputy Director of the Office of Administration shall notify all licensees of the established fee schedule before June 1 of each year.		X		The Director shall notify all licensees of the established fee schedule before June 1 of each year.	Clarifying language	2B (Statutory change when moved from DFBLs; there is no Deputy Director of Administration)
501 (C)	Licensees shall pay fees for the following services and may request a fee schedule from the Office: 1. Manufacturer license, 2. Retailer license, 3. Installer license, 4. Salesperson license, 5. Inspection and technical service, 6. Plans and supplements, 7. Installation permits and insignias, or 8. Administrative functions.		X				N/A
502 (A)	An applicant shall submit the applicable license bond amount listed for each license class. License Class Bond Amount M-9A \$10,000.00 M-9C \$65,000.00 M-9E \$100,000.00 D-8 \$25,000.00 D-10 \$25,000.00 D-12 \$25,000.00 I-10C \$2,500.00 I-10D \$1,000.00 I-10G \$5,000.00		X		An applicant and a licensee, when required, shall submit the applicable license bond amount listed for each license class. License Class Bond Amount M-9A \$10,000.00 M-9C \$65,000.00 M-9E \$100,000.00 D-8 \$25,000.00 D-10 \$25,000.00 D-12 \$25,000.00 I-10C \$2,500.00 I-10D \$1,000.00 I-10G \$5,000.00		Change to "No Change". The original intent was to add a bond for brokers, D-8B license class; however, we removed that during this conforming bill to avoid significant new regulation.
502 (B)	The Board shall not renew a license unless the applicant's surety bond or cash deposit is in full force and effect.		X		The Department shall not renew a license unless and until the licensee's surety bond is in full force and effect or the full cash deposit is made or in place.	Clarifying language	2B (Statutory change when moved from DFBLs; there is no Deputy Director of Administration)
503	HUD Monitoring Inspection Each manufactured home manufacturer shall pay a fee as established by the U.S. Department of Housing and Urban Development for each unit manufactured in this state. This fee shall be made payable to the Secretary of HUD for purchase of HUD Labels. This fee is in addition to the inspection fee required by R4-34-501(C)(5).			X		Covered in 24 CFR/HUD regulations	2B
504	HUD Label Administration In addition to the fees required under R4-34-501(C), each manufactured home manufacturer shall pay to the Office of Administration a fee of \$5 for each label issued in this state.		X		HUD Label Administration Fee In addition to the fees required under R4-34-501(C), each manufactured home manufacturer shall pay to the Department a fee of \$5 for each label issued in this state.		2B (Statutory change when moved from DFBLs; there is no Office of Administration)
505	Plans and Supplements If a plan or supplement submitted is not acceptable and the licensee fails to supply a complete and correct submittal within 60 days after the date on the notification letter, the Department shall treat the submittal fee originally paid by the licensee as forfeited and return the submittal. Resubmissions shall be accompanied by a new submittal fee.		X				N/A
506	Intergovernmental Agreement Permits The permit fee charged by local enforcement agencies participating in the Installation Inspection Program shall not exceed the amount established by the Board for the same service.			X		Covered under R4-34-801 (E)	2B
601	Manufactured Homes A manufacturer shall build a manufactured home according to the standards in R4-34-102.			X		Covered in 24 CFR/HUD regulations	2B
603	Factory-built Buildings and FBB Subassemblies		X		Factory-built Buildings		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules) (subassembly changed to FBB)
603 (A)	A manufacturer shall construct a factory-built building or a FBB subassembly according to the applicable standards in R4-34-102(2) and:		X		A manufacturer shall construct a factory-built building according to the applicable standards in R4-34-102(2) and:		2B & 2H (Statutory changes language in SB 1218 regarding the term subassembly)
603 (A) (1)	Provide a complete set of drawings and specifications to the Department under R4-34-703(B).		X		Provide a complete set of drawings and specifications to the Department as required by R4-34-703(B).		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)

603 (A) (2)	Affix a permanent serial number to each unit during the first stage of manufacturing. If a unit has multiple sections, the manufacturer shall ensure that each section is separately identified. The serial number location and application method shall be shown in the plans required under R4-34-703(B)(7); and		X		Affix a permanent serial number to each FBB during the first stage of manufacturing. If a FBB has multiple sections (modules), the manufacturer shall ensure that each module is separately identified. The serial number location and application method shall be shown in the plans required by R4-34-703(B)(7); and		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
603 (A) (3)	Affix an Arizona Insignia of Approval to each completed section. The insignia shall indicate the unit serial number and plan approval number, and be located on the unit as indicated in the plans required under R4-34-703(B)(8).		X		Affix a Modular Manufacturer's Certificate to each completed module where indicated in the plans as required by R4-34-703(B)(8).	Clarifying language	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
603 (B)	A manufacturer of a non-residential factory-built building or a FBB subassembly shall comply with 10 A.A.C. 3 relating to the Americans with Disabilities Act Guidelines (ADAAG).			X			2B
603 (C)	The Department may require that a manufacturer of a factory-built building or FBB subassembly produced and shipped before plan approval remove the unit from this state and remove insignias based on the following factors:		X		The Department may require that a manufacturer of a FBB that is produced and shipped before plan approval remove the unit from the state and remove certificates based upon the following factors: (i) probable harm to the public's safety and welfare; (ii) previous violations of a similar nature; and (iii) manufacturer's failure to comply with plan submittal and requirements.	Clarifying language	2B (Consolidates Rules)
603 (C) (1)	Probable harm to the public's safety and welfare.			X	Repeal: language added in 603 (C)		2B (Consolidates Rules)
603 (C) (2)	Number of previous violations of a similar nature, and			X	Repeal: language added in 603 (C)		2B (Consolidates Rules)
603 (C) (3)	Unwillingness of the manufacturer to comply with plan submittal and requirements.			X	Repeal: language added in 603 (C)		2B (Consolidates Rules)
604	Alterations A retailer shall ensure that alterations are consistent with the applicable standards and codes, as prescribed in R4-34-704(A).			X		Covered in 24 CFR/HUD regulations	2B
605	Reconstruction A manufacturer shall ensure that reconstruction is consistent with applicable codes, as prescribed in R4-34-704(B).		X		Reconstruction A manufacturer shall ensure that reconstruction is consistent with applicable standards as prescribed by R4-34-102(2) and: 1. existing construction and existing systems (electrical, plumbing, HVAC, energy, etc.) shall be structurally and otherwise sound and compliant with codes governing at the time of manufacture; 2. new construction, systems and components shall comply with applicable standards in R4-34-102(2); 3. shall affix a permanent serial number to each reconstructed FBB pursuant to R4-34-603(A)(2); 4. shall affix an Arizona Reconstruction Certificate to each module located where indicated in the plans as required by R4-34-703(B)(8); and 5. shall otherwise comply with R4-434-702(E).		2B (Consolidates Rules)
605 (1)				X	Repeal: language added in 605		2B (Consolidates Rules)
605 (2)				X	Repeal: language added in 605		2B (Consolidates Rules)
605 (3)				X	Repeal: language added in 605		2B (Consolidates Rules)
605 (4)				X	Repeal: language added in 605		2B (Consolidates Rules)
605 (5)				X	Repeal: language added in 605		2B (Consolidates Rules)
605 (6)				X	Repeal: language added in 605		2B (Consolidates Rules)
606	Rehabilitation of Mobile Homes	X					N/A
606 (A)	A rehabilitation permit shall be obtained from the office prior to any modification of the unit.		X		A rehabilitation permit shall be obtained from the Department prior to any modification of the mobile home.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
606 (B)	The following requirements shall be met for a mobile home to be issued a certificate of compliance:	X					N/A
606 (B) (1)	A smoke detector (which may be a single station alarm device) shall be installed on any wall in a hallway or space connecting bedroom(s) and living areas. When located in a hallway the detector shall be between the return air intake and the living area. Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located between 4 inches to 12 inches below the ceiling.		X		A smoke alarm shall be installed in each sleeping room and outside each separate sleeping area in the immediate vicinity of the bedrooms. Each smoke alarm shall be installed in accordance with its manufacturer's installation instructions.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
606 (B) (2)	The walls, ceilings, and doors of each gas fired furnace and water heater compartment shall be lined with 5/16 inch gypsum board, unless the door opens to the exterior of the unit in which case the door may be all metal construction. All exterior compartments shall seal to the interior of the unit.		X		The walls, ceilings, and doors of each gas fired furnace and water heater compartment shall be lined with minimum 5/16 inch gypsum board, unless the door opens to the exterior of the mobile home in which case the door may be all metal construction. All exterior compartments shall seal to the interior of the mobile home.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
606 (B) (3)	Each room designated expressly for sleeping purposes shall have at least one outside egress window or approved exit device, unless it has an exterior exit door. The window or exit shall have a minimum clear dimension of 22 inches and a minimum clear opening of 5 square feet. The bottom of the exit shall not be more than 36 inches above the floor.		X		Each room designated expressly for sleeping purposes shall have at least one outside egress window or approved exit device, unless it has an exterior exit door. The window or exit shall have a minimum clear dimensions of 22 inches and a minimum clear opening of 5 square feet. The bottom of the exit shall not be more than 36 inches above the floor.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
606 (B) (4)	All electrical systems shall be tested for continuity to assure that metallic parts are properly bonded, tested for operation to demonstrate that all equipment is connected and in working order, and given a polarity check to determine that connections are proper. The electrical system shall be properly protected for the required amperage load. If the unit wiring is of aluminum conductors, all receptacles and switches rated at 20 amperes or less directly connected to the aluminum conductors shall be marked CO/ALR. Exterior receptacles other than hook tape receptacles, shall be of the ground fault circuit interruptor (GFI) type. Conductors of dissimilar metals (Copper/Aluminum/or Copper Clad Aluminum) must be connected in accordance with NEC Section 110-14; and		X		All electrical systems shall be tested for continuity to assure that metallic parts are properly bonded, tested for operation to demonstrate that all equipment is connected and in working order, and given a polarity check to determine that connections are proper. The electrical system shall have adequate over current protection for the required amperage load. If the mobile home wiring is of aluminum conductors, all receptacles and switches rated at 20 amperes or less directly connected to the aluminum conductors shall be marked CO/ALR. Ground Fault Circuit Interrupter receptacles shall be installed in locations as required by the currently adopted edition of the National Electric Code (NEC). Conductors of dissimilar metals (Copper/Aluminum/or Copper Clad Aluminum) shall be connected in compliance with the currently adopted edition of the NEC; and		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)

606 (B) (5)	The unit's gas piping shall be tested with the appliance valves removed from the piping system and piping capped at those areas. The piping system shall withstand a pressure of at least 6 inch mercury or 3 psi gauge for a period of not less than 10 minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or a slope gauge calibrated so as to read in increments of not greater than 1/10th pound or equivalent device. The source of normal operating pressure shall be isolated before the pressure test is made. After appliance connections are reinstalled, the piping system and connections shall be tested with line pressure of not less than 10 inches nor more than 14 inches water column air pressure. The appliance connections shall be tested for leakage with soapy water or bubble solution. All gas furnaces and water heaters shall be vented in accordance with UMC Chapter 8.					X		The gas piping shall be tested in compliance with methods incorporated by reference in R4-34-102. All gas furnaces and water heaters shall be installed in compliance with materials incorporated by reference in R4-34-102.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
							X	Exception: If the mobile home is to be relocated following the rehabilitation, the gas test can be performed and inspected as part of the installation inspection at the new location.	Add as 606 (B) (6)	2H
606 (C)	The unit shall be inspected by the office to ascertain compliance with subsection (B).						X	The mobile home shall be inspected by the Department to ascertain compliance with subsection (B).		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
606 (D)	The office shall issue a certification of compliance for each unit in compliance with subsection (B), and affix an insignia of approval to the exterior wall nearest the point of entrance of the electrical service.						X	The Department shall issue a rehabilitation certificate for each mobile home in compliance with subsection (B), and affix the rehabilitation certificate to the exterior wall nearest the point of entrance of the electrical service.		2B (Statutory change when moved from DFBL; there is no Office of Administration)
606 (E)	Upon request the office shall issue a waiver for a unit that does not qualify as a mobile home. The category of the unit shall be determined by inspection of the unit or presentation of acceptable documents. The waiver fee is applicable if the category of the unit can be determined to qualify for exemption. If an inspection of the unit is necessary to determine its category, the inspection fee shall apply.						X			2B
606 (F)	A person served with a correction notice shall make the required corrections within the time period specified in the notice. The time period shall be determined by the office based on the severity of the hazard or violation in the time reasonably needed to make the correction. A minimum of 30 days shall be allowed unless an imminent safety hazard is found, or if the correction has been unreasonably delayed, in either event an Order to Vacate shall be issued to the person occupying the unit.						X	A person served with a correction notice shall make the required corrections within the time period specified in the notice. The time period shall be determined by the Department based on the severity of the hazard or violation in the time reasonably needed to make the correction. A minimum of 30 days shall be allowed unless an imminent safety hazard is found, or if the correction has been unreasonably delayed, in either event an Order to Vacate shall be issued to the person occupying the mobile home.		2B (Statutory change when moved from DFBL; there is no Office of Administration)
606 (G)	A person occupying a non-rehabilitated unit shall be served with an Order to Vacate that unit within 5 days if on inspection the unit is found to contain an imminent safety hazard.						X	A person occupying a non-rehabilitated mobile home shall be served with an Order to Vacate that mobile home within 5 days if on inspection the mobile home is found to contain an imminent safety hazard.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
607	Manufacturing Inspection and Certification						X			N/A
607 (A)	The Department shall conduct manufactured home plant certification under R4-34-102(1).						X			N/A
607 (B)	Before issuing insignias the Department shall certify that each manufacturing facility of factory-built buildings or FBB subassemblies is capable of manufacturing the units or subassemblies to the specifications in the approved drawings and the quality assurance manual.						X	Before issuing Certificates the Department shall certify that each manufacturing facility of FBBs is capable of manufacturing the FBB to the specifications in the approved drawings and procedures in the approved compliance manual.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules) (Insignia terminology swapped for Certificate).
607 (C)	Unit certification:						X		Covered in 24 CFR/HUD regulations	2B
607 (C) (1)	The Department shall conduct manufactured home certification under R4-34-102(1) and						X		Covered in 24 CFR/HUD regulations	2B
607(C)(2)	Each manufacturer of factory-built buildings, FBB subassemblies, and reconstructed units shall certify compliance with approved plans by affixing an Arizona Insignia of Approval to each unit or subassembly before delivery to a retailer.						X	Each manufacturer of FBBs and reconstructed FBBs shall certify compliance with approved plans by affixing a Modular Manufacturer Certificate or Reconstruction Certificate, as appropriate, to each FBB before delivery to a retailer.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
607(D)	Records and reporting:						X			N/A
607 (D) (1)	Each manufacturer of manufactured homes shall report affixing HUD labels, complete any other required reports, and establish and maintain records required under R4-34-102(1) and						X			N/A
607 (D) (2)	Each manufacturer of factory-built buildings, reconstructed units, and FBB subassemblies shall report to the Department affixing Arizona Insignias of Approval by the 15th day of each month.						X	Each manufacturer of FBBs and reconstructed FBBs shall report to the Department affixing Arizona Modular Manufacturer and/or Reconstruction Certificates by the 15th day of each month.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules) (Insignia terminology swapped for Certificate).
607 (E)	The Department shall decertify a production facility for any one of the following reasons:						X	The Department shall decertify a production facility if: 1. a serious defect exists in more than one FBB; 2. three or more repetitive failures to meet specifications in the approved plans, codes or compliance assurance manual are identified by an inspector; 3. an in-state licensee fails to produce approved FBBs for more than six consecutive months; or 4. an out-of-state licensee fails to file quarterly inspection reports for a period of six consecutive months.		2B (Consolidates Rules)
607 (E) (1)	An inspector identifies a serious defect existing in more than one unit;						X	Repeal: language included in 607 E, above		2B (Consolidates Rules)
607 (E) (2)	An inspector identifies three or more repetitive failures to specifications in the approved plans, codes, or quality assurance manual;						X	Repeal: language included in 607 E, above		2B (Consolidates Rules)
607 (E) (3)	A licensee within this state fails to produce approved units for more than six consecutive months; or						X	Repeal: language included in 607 E, above		2B (Consolidates Rules)
607 (E) (4)	An out-of-state licensee fails to file quarterly inspection reports for a period of six consecutive months.						X	Repeal: language included in 607 E, above		2B (Consolidates Rules)
607 (F)	Recertification is required upon decertification of a production facility.						X			N/A
607 (F) (1)	The Department shall evaluate the production process to assure the manufacturer's procedures are consistent with the approved plans, codes and compliance manual at every stage of production.						X	The Department shall evaluate the production process to assure the manufacturer's procedures are consistent with the approved plans, codes and compliance manual at every stage of production.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
607 (F) (2)	Upon the manufacturer's successful completion of the recertification process, the Department shall issue insignias to the manufacturer.						X	Upon the manufacturer's successful completion of the recertification process, the Department shall resume issuance of Certificates or Labels to the manufacturer.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules) (Insignia terminology swapped for Certificate).
607 (G)	Inspection of retailer lots:						X			N/A
607 (G) (1)	The Department shall conduct regular inspections of retailer lots to assure compliance with approved plans, standards, and A.R.S. § 41-2195.						X	The Department may conduct inspections of retail lots to assure compliance with approved plans, standards, and A.R.S. § 41-4048.		2B & 2H (Statute reference changed).

607 (G) (2)	The Department may require that a manufacturer of units produced and shipped before plan approval remove the units from this state and remove insignias based on the following factors: a. Probable harm to the public's safety and welfare, b. Number of previous violations of a similar nature, and c. Unwillingness of the manufacturer to comply with plan submittal and requirements.					X			Redundant. Covered in 603.	2B (Consolidates Rules)
701	General		X							N/A
701 (A)	A. Before construction of a unit or subassembly, a manufacturer shall submit to the office:			X					Before construction of a manufactured home or FBB, a manufacturer shall submit to the Department:	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules) (subassembly changed to FBB)
701 (A) (1)	The quality assurance manual required by R4-34-702, and			X					The compliance assurance manual required by R4-34-702, and	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
701 (A) (2)	The drawings and specifications required by R4-34-703.		X							N/A
701 (B)	Before performance of any alteration, a retailer shall obtain plan approval under R4-34-704(A).			X					Before installation, alteration or reconstruction: 1. a properly licensed person or any person shall obtain plan approval under R4-34-704(A) for alterations; 2. a properly licensed person or any person shall obtain plan approval under R4-34-704(B) for reconstruction; 3. a properly licensed person or any person shall obtain plan approval under R4-34-705 for installing an attached accessory structure; and 4. a properly licensed person or any person shall obtain plan approval under R4-34-706 for installing FBB.	2B (Consolidates Rules)
701 (C)	Before installing an accessory structure or ground anchors for a manufactured home, mobile home, or residential single-family factory-built building, an installer shall obtain plan approval under R4-34-705.					X			Repeal language included in 701 (B), above	2B (Consolidates Rules)
701 (D)	Before reconstructing a manufactured home or factory-built building, a manufacturer shall obtain plan approval under R4-34-704(B).					X			Repeal language included in 701 (B), above	2B (Consolidates Rules)
701 (E)	Before the installation of a factory-built building a person installing the building shall obtain plan approval under R4-34-706.					X			Repeal language included in 701 (B), above	2B (Consolidates Rules)
701 (F)	The Department shall determine whether a submittal is administratively complete within 20 business days after receipt of a submittal. The Department shall review all plans within 20 business days after receipt of a complete submittal. The overall time-frame for plan approval is 40 days, excluding time for requirements that are the responsibility of the applicant.			X					Within twenty business days of receipt, the Department will perform an administrative review of plans, and if incomplete, the licensee is required to provide a complete plan submittal. Within 20 business days following receipt of a complete plan submittal, the Department shall approve or disapprove such plan submittal.	Clarifying language 2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
701 (G)	A manufacturer, retailer, or installer shall provide an original and one copy of each submittal.			X					A properly licensed person or any person shall provide an original and one copy of each plan submittal: - each sheet shall be a minimum of 8 1/2" x 11"; - text shall be a minimum of 8 point font size; - the cover page shall include an index and provide a 3 x 5 blank space near the title block; - plans, details and calculations shall be stamped by an engineer registered by the State of Arizona. Each plan submittal shall be consistent with current standards and codes adopted by the Board. Any previously approved plans that are inconsistent with current standards and codes are invalid.	2B (Consolidates Rules)
701 (H)	A manufacturer, retailer, or installer shall update each plan so that it is consistent with current standards and codes adopted by the Board. Supplements are acceptable for this purpose.					X			Repeal language added above.	2B (Consolidates Rules)
701 (I)	Plans submitted shall be stamped by an engineer registered by the State of Arizona.					X			Repeal language added above.	2B (Consolidates Rules)
702	Quality Assurance Manuals		X				X		A properly licensed entity or person shall complete and submit an application form obtained from the Department.	Add as 701 (K) 2H
702 (A)	A manufacturer of manufactured homes shall prepare the quality assurance manual required by R4-34-102(1).			X					Compliance Assurance Manuals	Covered in 24 CFR/HUD regulations 2B
702 (B)	A manufacturer of factory-built buildings and FBB subassemblies shall prepare a quality assurance manual that has all of the following attributes:			X					A manufacturer or FBB shall prepare a compliance assurance manual that has all the following: 1. a format with an 8 1/2" x 11" and revision traceability, and page numbers; 2. the manufacturer's name, address of the factory to which the manual applies; 3. a table of contents identifying key elements of the compliance control process; 4. organizational chart reflecting all aspects of compliance control by title of position and a description of the position's responsibilities; 5. design document control process and the procedures for assuring that current approved design package and/or building plans are available to production and compliance personnel; 6. procedures for handling of materials to ensure compliance with codes and standards, including the treatment and disposal of rejected materials; 7. the building identification system that requires a unique identifier, serial number, or identification number be permanently affixed to each module of each building at the first stage of manufacturing, and a description of the location of the identifier; 8. a plan showing the layout of the factory and a description of the manufacturing sequence, including the scope of work for each work station/work process area, including off-line processes; 9. an inspection checklist that identifies the inspections and tests to be performed at each stage of production and personnel position responsible for inspection; 10. step by step procedures for all tests required by regulation or codes, identification of test equipment, and documentation of procedures for maintaining test equipment; 11. procedures for controlling certificates, the installation of certificates on buildings, the monthly reporting of certificates, and persons responsible for these tasks; 12. procedures for the storage of completed buildings at the facility and how stored buildings are protected from the elements and other damage; and 13. procedures for the retention of building documents; 14. an inspection checklist keyed to the manufacturing sequence, as described in the factory layout, that identifies the inspections and tests to be made at each station/work process area and stage of production. All significant areas of manufacture and all testing shall be included in the	2B (Consolidates Rules)
702 (B) (1)	Format: a. 8 1/2 by 11 inch size, b. An index page, and c. Revision traceability					X			Repeal language added to 702 (B), above	2B (Consolidates Rules)
702 (B) (2)	Contents:					X			Repeal language added to 702 (B), above	2B (Consolidates Rules)
702 (B) (2) (a)	An organizational chart, by position, of all quality control personnel responsible for compliance of incoming components and in-plant manufacturing activities.					X			Repeal language added to 702 (B), above	2B (Consolidates Rules)

702 (B) (2) (b)	A description of the quality assurance program adhered to by personnel listed on the organization chart.			X		Repeal: language added to 702 (B), above		2B (Consolidates Rules)
702 (B) (2) (c)	A flow chart depicting the minimum in-plant inspection requirements, using stations, a production control routing document, stage of manufacture or type of work control, or an equivalent method of in-plant inspection.			X		Repeal: language added to 702 (B), above		2B (Consolidates Rules)
702 (B) (2) (d)	A description of tests performed and test equipment used.			X		Repeal: language added to 702 (B), above		2B (Consolidates Rules)
702 (B) (2) (e)	A description of procedures for receiving and inspecting construction materials, handling damaged material, and rotating stock.			X		Repeal: language added to 702 (B), above		2B (Consolidates Rules)
702 (B) (2) (f)	A description of procedures for control of drawings and insignias; and			X		Repeal: language added to 702 (B), above		2B (Consolidates Rules)
702 (B) (2) (g)	A description of recordkeeping procedures.			X		Repeal: language added to 702 (B), above		2B (Consolidates Rules)
703	Drawings and Specifications							N/A
703 (A)	A manufacturer of manufactured homes shall submit drawings and specifications that comply with applicable standards in R4-34-102(1).	X						N/A
703 (B)	A manufacturer of factory-built buildings or FBB subassemblies shall submit plans that comply with the applicable standards in R4-34-102(2). The plans shall provide or have the following information or format attributes:		X			A manufacturer of FBB shall submit plans that comply with the applicable standards in R4-34-102(2). The plans shall provide or have the following information or format attributes:		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules) (subassembly changed to FBB)
703(B) (1)	A set of drawings, process descriptions, component lists, shop drawings, or other documents that specify and identify each component, process, assembly operation, and manufacturing step.		X			Dimensioned drawings and details identifying all process descriptions, components, specification lists, shop drawings, and other documents that specify and identify each component, process, assembly operation, and manufacturing step. Include electrical, plumbing, gas and HVAC systems.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
703(B) (2)	A complete set of dimensional views designating the location of all processes performed in the manufacture of the unit or subassembly.		X			A complete set of dimensional views designating the location of all processes performed in the manufacture of the FBB.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
703(B) (3)	A complete listing of all components and subassemblies by cross identification to usage.		X			A complete listing of all components by cross identification to usage.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules) (subassembly changed to FBB)
703(B) (4)	A traceable identification for each component and subassembly listed.		X			A traceable identification for each component listed.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules) (subassembly changed to FBB)
703(B) (5)	A complete listing of all processes by cross identification to usage.	X						N/A
703(B) (6)	An onsite foundation specification for each unit for a given soil bearing capacity.		X			Design analysis calculations for all loads and systems.		N/A
703(B) (7)	The location and process for stamping the permanent serial number; and	X						N/A
703(B) (8)	The location of the Arizona Insignia of Approval.		X			The location of the Arizona Modular Manufacturer Certificate.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules) (Insignia terminology swapped for Certificate).
					X	Dimensioned plans and details identifying all components and construction to be field installed.	Add as 703 (B) (9)	2H
704	Alterations or Reconstruction		X			Reconstruction		2B (repealed all language associated with Alterations. Changing heading to "Reconstruction" only.)
704 (A)	Alterations.			X			Alterations covered under HUD standards	2B
704 (A) (1)	A retailer or broker performing any alteration on a unit shall send notice of the alteration to the manufacturer of the unit.			X				2B
704 (A) (2)	A retailer or broker performing an alteration on a unit shall prepare a detailed set of drawings and specifications that depict all aspects of the alteration and any serial numbers of the unit.			X				2B
704 (A) (3)	A retailer or broker shall ensure that manufactured home plans comply with the manufactured home construction and safety standards prescribed in R4-34-102(1).			X				2B
704 (A) (4)	A retailer or broker shall ensure that factory-built building and FBB subassembly plans comply with R4-34-703(B).			X				2B
704 (B)	Reconstruction.	X						N/A
704(B) (1)	A manufacturer shall comply with the standards in R4-34-102(2) when preparing reconstruction plans.	X						N/A
704(B) (2)	A manufacturer preparing reconstruction plans shall prepare a detailed set of drawings and specifications that depict all aspects of the reconstruction and contain the serial number of the unit.		X			The manufacturer preparing reconstruction plans shall prepare a detailed set of dimensioned drawings and specifications that depict all aspects of the reconstruction including a plan depicting the original configuration and contains the serial number of unit.		2C & 2H
					X	A manufacturer shall include a certification statement of the existing components, construction, and systems indicating they are structurally sound, functional, and do not pose a life safety threat.	Add as 704 (B) (3)	2H
705	Accessory Structures and Ground Anchoring		X			Accessory Structures		2B
705 (A)	Accessory structures.	X						N/A
705(A) (1)	For commercial factory-built buildings, an installer shall comply with the International Building Code when preparing accessory structure plans. For residential single-family factory-built buildings, an installer shall comply with the International Residential Code when preparing accessory structure plans.		X			For commercial factory-built buildings, a properly licensed entity or person shall comply with the International Building Code when preparing attached accessory structure plans. For manufactured homes, mobile homes, and residential single-family FBBs, a properly licensed entity or person shall comply with the International Residential Code when preparing attached accessory structure plans.		2B, 2C & 2H
705(A) (2)	The Department may approve a design that does not comply with the International Building Code or the International Residential Code based on a demonstration by an Arizona Registered Engineer that the design is engineered to standards at least equivalent to those in the applicable code.	X						N/A
705(A) (3)	An installer shall submit plans for all accessory structures except skirting, evaporative coolers, refrigeration, air conditioning systems, and storage rooms of less than 120 square feet.		X			A properly licensed entity or person shall submit plans for all attached accessory structures except skirting systems with manufacturer installation instructions and sealed by a registered engineer, and HVAC systems.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
705 (B)	Ground anchoring plans shall be certified by a registered engineer or approved by the Office of Manufactured Housing so that anchoring systems resist overturning and lifting effects of the wind.			X				2B
705(B) (1)	An installer shall comply with the applicable requirements in R4-34-102 or the manufacturer's installation manual when preparing ground anchoring plans. If neither apply, the Department shall compare the plans to those of an equivalent, current installation to determine whether the plans are approveable.			X				2B
705(B) (2)	The plans shall be of sufficient detail and description that all materials, dimensions, and processes can be readily identified.			X				2B
706	Factory-built Building Installation							N/A
706 (A)	An installer shall complete and submit an application form obtained from the Department.			X				2B

706 (B)	An installer shall include the following in the installation plans:		X			A properly licensed entity or person shall include the following in the installation plans:		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
706(B) (1)	The site plans, including the location of the building and location of all utility lines:	X						N/A
706(B) (2)	The foundation plans, including:	X						N/A
706(B)(2) (a)	A description of the soil class and the soil bearing pressure:	X						N/A
706(B)(2) (b)	Footings, designed to meet the minimum bearing pressure at the depth required:		X			Footings and/or other foundation supports designed to meet the minimum bearing pressure at the depth required and any site conditions:		2C
706(B)(2) (c)	A complete set of drawings indicating dimensions and details of the foundation footing and anchoring; a complete list of materials, and a cross-identification of how materials will be used, in the appropriate view; and	X						N/A
706(B)(2)(d)	Calculations, prepared by an engineer, for all load conditions, including wind loads for horizontal loads, uplift loads, overturning, and horizontal and torsional earthquake effects on foundations.	X						N/A
706(B) (3)	Electrical drawings, including the isometric one-line diagram required by R4-34 102(2)(a), that contain the following information:	X						N/A
706(B)(3) (a)	Size and type of conductors, length of feeders, and all amperage:		X			Quantity, size and type of conductors, and length of feeders:		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
706(B)(3) (b)	Dimensions of gutterways and raceways:	X						N/A
706(B)(3)(c)	Complete details of panelboards, switchboards, and distribution centers; and		X			Complete details of panelboards, switchboards, and distribution centers which include total load amperage and fault current calculation; and		2C
706(B)(3) (d)	All grounding and bonding connections.		X			All grounding and bonding connections including grounding electrode provisions.		2C
706(B) (4)	Plumbing drawings, including any one-line diagrams required by R4-34 102(2)(d) and (e) that contain the following information:	X						N/A
706(B)(4) (a)	Location of sewer tap, water meter, and gas meter:	X						N/A
706(B)(4) (b)	Size, length, and all materials for sewer, water, and gas lines; and		X			Size, length, and all materials for sewer, water and gas lines:		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
706(B)(4) (c)	Location of all cleanouts and grade of sewer line.		X			Location of all cleanouts and grade of sewer line; and		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
					X	Fixture unit calculations for plumbing and gas fixtures.	Add as 706 (B) (4) (d)	2C
					X	Fastening/closure details for connection of multiple modules.	Add as 706 (B) (4) (e)	2C
					X	Dimensioned plans and details of all components and construction not completed by the manufacturer that is to be field installed.	Add as 706 (B) (4) (f)	2C
					X	Designated Flood Prone Area Installation	Add as 707	2C
				X		A. A properly licensed entity or person shall include the following in the designated flood prone area installation plan submittal: 1. The site plan identifying the location of the manufactured home, mobile home, or factory-built building; 2. A copy of the designated flood use permit or flood design conditions issued by the local enforcement agency which includes the flood zone type, regulatory flood, and base flood elevations; 3. Site specific foundation plans sealed by a current state of Arizona engineer, to include: a. A complete set of drawings indicating dimensions and details of the foundation system and anchoring to prevent floatation, collapse, or lateral movement of the structure; b. A complete list of materials, and a cross-identification of how materials will be used in the appropriate view; c. Frame of structure noted at or above the regulatory flood elevation; d. External utilities and equipment at or above the regulatory flood elevation; e. Flood vents and/or openings for enclosed foundation systems; and f. Calculation, prepared by an engineer, for all load conditions. 4. Written approval for the site plan and foundation system by the local flood district administrator having authority.	Add as 707 (A)	2C
801	Permits	X						N/A
801 (A)	A licensee or consumer shall obtain a permit for the installation of manufactured homes, mobile homes, factory-built buildings, accessory structures, or rehabilitation of mobile homes.		X			A properly licensed entity or person shall obtain a permit for the installation of manufactured homes, mobile homes, FBBS, attached accessory structures, or rehabilitation of homes.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
801 (B)	The Department shall issue or deny a permit within seven business days from the date the application is received.		X			The Department shall issue or deny a permit within seven business days from the date the application is received. Corrections to applications shall be submitted to the Department within twenty business days from the date the application is denied.		2H (AMS Process Improvement)
801 (C)	A licensee or consumer shall obtain a permit before beginning any work and post the permit in a conspicuous location onsite. The licensee who contracts to install a unit or a licensed installer who subcontracts to perform the installation shall verify that a valid installation permit has been obtained before beginning the installation.		X			A properly licensed entity or person shall obtain all required permits such as zoning, flood plain, installation, etc. from the local jurisdiction and the Department before beginning any installation work. All permits shall be posted in a conspicuous location onsite. The properly licensed entity or person who contracts to install a unit and a licensed installer who subcontracts to perform the installation shall verify that all required permits have been obtained from the Department and local jurisdiction before beginning the installation.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
801 (D)	Local jurisdictions that have entered into agreement with the Department may issue installation permits and conduct inspections.	X				A licensee or consumer shall obtain a certificate of occupancy from the Department before occupying a commercial factory-built building.		N/A
801 (E)	A permit fee shall be charged by the Department or the local authority participating in the installation inspection program. The fee charged by the Department shall be the amount established by the Board under A.R.S. § 41-2144 (A)(4). The fee charged by a local jurisdiction shall not exceed the amount established by the Board under § 41-2144(A)(4).	X				A permit holder, owner, or contractor shall call for all required inspections.		N/A

801 (F)	Every permit except a special use permit expires six months from the date the permit is issued. The Department may extend the permit for good cause.		X		Every permit except a special use permit expires six months from the date the permit is issued. The Department may extend the permit for good cause upon written request and prior to the expiration date of the permit, with payment of the fee established by the Board pursuant to A.R.S. § 41-4010 (A) (4).		2H (AMS Process Improvement)
801 (G)	A licensee or consumer shall obtain a certificate of occupancy from the Department before occupying a commercial factory-built building.		X		A properly licensed entity or person shall obtain a certificate of occupancy from the Department before occupying a manufactured home, mobile home or FBB.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
801 (H)	A permit holder, owner, or contractor shall call for all required inspections.		X		A permit holder shall make a request for all required inspections.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
801 (I)	All work listed on the permit shall be accessible (opened) for inspections.		X		All work listed on the permit shall be accessible (opened for inspections and no work shall be performed beyond the point indicated in each successive inspection without first obtaining the approval of the Department.	Clarifying language	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
801 (J)	Approved plans or the manufacturer's installation manual shall be available onsite.		X		Approved plans and all applicable manuals shall be available onsite.	Clarifying language	2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
801 (K)	A special use permit for FBB used for events of 45 days or less shall be obtained from the Department. The permit expires 45 days from the date of purchase. The unit shall be removed from the site when the permit expires.	X					N/A
802	General Installation	X					N/A
802 (A)	An installer or contractor shall affix and complete an Arizona Insignia of Approval to each manufactured home, mobile home, or single-family factory-built building at the tail-light end of each unit, approximately one foot up from the floor and one foot in from the road side. "Road side" means the right side of the unit when viewing the unit from the hitch. The installer or contractor shall affix the insignia before calling the Office for an inspection.		X		A properly licensed entity shall complete and affix an Arizona Installation Certificate to each manufactured home, mobile home or FBB at the end of each unit opposite the hitch and adjacent to the manufacturer certificate or HUD label. The installer or contractor shall affix the Installation Certificate before calling the Department for an inspection.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
802 (B)	An installer or contractor shall make a report by the 15th of each month regarding compliance with subsection (A).		X		A properly licensed entity shall submit a report to the Department by the 15th of each month listing all Installation Certificates affixed in the preceding month.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
802 (C)	An installer or contractor shall check with local jurisdictions for frost line requirements governing permanent foundations or utilities.		X		A properly licensed entity shall verify with local jurisdictions any local ordinances pertaining to the installation prior to installing a mobile home, manufactured home, or FBB.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
802 (D)	An installer or contractor shall install multi-sectional manufactured homes manufactured after June 30, 1977, according to the manufacturer's instructions for joining the sections, making utility cross-over connections, and providing center (marriage) line and perimeter supports if the instructions are consistent with this Chapter.		X		A properly licensed entity shall install all new manufactured homes, used manufactured homes, and mobile homes according to the materials incorporated by reference in R4-34-102.		2B & 2H (Eliminates uncertainties within the regulated community by making it easier to comprehend these Rules)
802 (E)				X	A properly licensed entity that contracts with a person for an installation shall perform or contract for any site preparation necessary to make the site compatible with the manufactured home, mobile home, or residential FBB to be installed. The properly licensed entity may contract with a licensed installer or other qualified professional to assess site and soil compatibility or perform any necessary preparation work. The entity actually performing the site compatibility assessment or work is primarily responsible for work related to site compatibility or preparation. The properly licensed entity that contracts with the consumer, if a different entity, is secondarily responsible.	Add as 802 (E)	2C
802 (F)				X	The installation of a mobile home, manufactured home, or factory-built building shall only be performed by a properly licensed entity.	Add as 802 (F)	2C
803	Soil and Materials			X		Covered in 24 CFR/HUD regulations	2B
803 (A)	A licensee that contracts with a consumer for an installation shall perform or contract for any site preparation necessary to make the site compatible with the manufactured home, mobile home, or residential single-family factory-built building to be installed. The licensee may contract with a licensed installer or other qualified professional to assess site and soil compatibility or perform any necessary preparation work. The party actually performing the site compatibility assessment or work is primarily responsible for work related to site compatibility or preparation. The licensee that contracts with the consumer, if a different entity, is secondarily responsible.			X			2B
803 (B)	Soil Preparation			X			2B
803 (B)(1)	Unless contrary to law, an installer or contractor shall:			X			2B
803 (B)(1)(a)	Divert any surface water away from the dwelling, any accessory structures, and their support components.			X			2B
803 (B)(1)(b)	Provide sufficient drainage to prevent standing water and soil saturation detrimental to structures.			X			2B
803 (B)(1)(c)	Establish soil grades that slope away from the dwelling, any accessory structures, and their support components; and			X			2B
803 (B)(1)(d)	Compact all fill and backfill within 6 feet of the perimeter of the unit to prevent displacement.			X			2B
803 (B)(2)	When determining soil compaction an installer or contractor shall:			X			2B
803 (B)(2)(a)	Assume a minimum bearing capacity of 1,000 psf; or			X			2B
803 (B)(2)(b)	Test and prove a minimum bearing capacity of 1,000 psf to the onsite inspector; or			X			2B
803 (B)(2)(c)	Adhere to the specifications of a registered engineer, provided onsite, to an inspector.			X			2B
803 (C)	Materials: An installer or contractor shall use materials that comply with applicable standards incorporated in R4-34-102.			X			2B
803 (D)	Footings: An installer or contractor shall:			X			2B
803 (D)(1)	Place each footing on a surface capable of distributing equalized transfer of applied loads.			X			2B
803 (D)(2)	Calculate and use the minimum size of each footing, necessary to minimize settling of the unit accounting for local soil conditions.			X			2B
803 (D)(3)	Use piers with a maximum square base of 11 1/2 inch installed on 12 inch by 12 inch footings to support mobile and manufactured homes manufactured before January 1, 1984.			X			2B

803 (D)(4)	Use main frame blocking installed on footings with 144 square inches of surface placed 3 feet, 6 inches from center, or footings with 256 square inches of surface placed at 6 foot intervals to support manufactured homes manufactured on or after January 1, 1984.				X				2B
803 (D) (5)	Use footing material with one of the following attributes:				X				2B
803 (D)(5)(a)	Minimum 3/4-inch thick plywood or two layers of 5/8-inch thick plywood no less than 12 inches wide. The plywood shall be Grade CDX APA Rated Sheeting Exposure 1, PSI-treated for ground contact, conforming to International Building Code or International Residential Code, as applicable under R4-34-102(2)(a) or (b).				X				2B
803 (D)(5)(b)	Minimum 2-inch nominal thickness wood no less than 12 inches wide, and treated for ground contact, conforming to the International Building Code or the International Residential Code, as applicable under R4-34-102(a) or (b):				X				2B
803 (D)(5)(c)	Minimum 3-inch thick precast concrete pad with either 256 or 144 square inches of ground surface. The concrete shall have a minimum of 28 days compressive strength of not less than 4000 pounds per square inch: or				X				2B
803 (D)(5)(d)	Hard plastic pad with either 256 or 144 square inches of ground surface. The plastic pad shall withstand a minimum vertical concentrated load failure rating of 15,000 pounds when tested on very dense and coarse gravel soils. "Failure" means that a crack at least 4 inches in length has appeared anywhere on the pad or the pad's surface has curled or bowed.				X				2B
803 (D)(6)	Stack plywood with face grain perpendicular and fasten the plywood with corrosion-resistant nails or 7/16-inch wide-crown staples or screws:				X				2B
803 (D)(7)	Fasten wood products that are stacked with corrosion-resistant nails or 7/16-inch wide-crown staples or screws:				X				2B
803 (D)(8)	Not use any 2-inch thick piece of wood with split penetration greater than 4 inches into the end of the piece and parallel to the edges of the piece:				X				2B
803 (D)(9)	When precast concrete pads are stacked, use pads with equal sized surface sizes:				X				2B
803 (D)(10)	When concrete masonry unit (CMU) building blocks are used for supports, use only 256 square inch ground and 8 inch by 16 inch caps:				X				2B
803 (D)(11)	Stack plastic pads only when the pad is provided with an interlocking system: and				X				2B
803 (D)(12)	Stack no more than two equal sized concrete pads per support.				X				2B
803 (E)	Supports (piers): An installer or contractor shall:				X				2B
803 (E)(1)	Place supports or piers on footings that do not exceed the size of the footing.				X				2B
803 (E)(2)	Ensure that supports or piers bear no greater load than 8,000 pounds:				X				2B
803 (E)(3)	Ensure that supports or piers have a minimum vertical concentrated load failure rating of 15,000 pounds:				X				2B
803 (E) (4)	Not use supports with a height in excess of 36 inches or less than 12 inches for more than 25% of the supports along the main beams of the chassis, including footing:				X				2B
803 (E)(5)	For a below ground installation, ensure that the height of the bottom of the perimeter rim joist is a minimum of 6 inches above finished grade:				X				2B
803 (E)(6)	Ensure that the height of the bottom of the floor joist is a minimum of 18 inches above soil base unless otherwise specified by the manufacturer in instructions consistent with this Chapter:				X				2B
803 (E)(7)	Locate supports or piers under the main beams of the chassis at intervals no greater than 6 feet and no more than 2 feet from either end of each main beam. When intervals no greater than 6 feet are not feasible because of running gear, supports shall be located as close as possible to the running gear with the remainder of the supports spaced according to the 6 and 2 foot requirements:				X				2B
803 (E)(8)	Stagger the flanges on top of supports or piers so that every other flange is on the opposite side of the beam: and				X				2B
803 (E)(9)	Construct permanent support heights to the International Building Code or the International Residential Code as applicable under R4-34-102(2)(a) or (b).				X				2B
803 (F)	Wedges: An installer or contractor shall:				X				2B
803 (F)(1)	Use two wedges in alignment per support:				X				2B
803 (F)(2)	Use wood wedges that are a minimum of 1 1/2 inches by 3 1/2 inches by 6 inches: and				X				2B
803 (F)(3)	Drive wedges in tightly so that the height developed does not exceed 2 inches at the support: and				X				2B
803 (F)(4)	Provide each I-Beam of the building with full bearing on the wedge: or				X				2B
803 (F)(5)	Use listed or approved shimming material according to the manufacturer's wedge instructions: or				X				2B
803 (F)(6)	Use material and methods designed by an Arizona professional engineer or architect and approved by the authority having jurisdiction.				X				2B
803 (G)	Anchoring: An installer or contractor shall use an anchoring system that is certified by a registered, professional engineer.				X				2B
803 (H)	Snow/Wind Loads				X				2B
803 (H)(1)	Under 24 CFR 3282.11 and 3280.305, the authority having jurisdiction may not require manufactured homes to be built or installed to a snow load greater than 20 pounds per square foot unless the jurisdiction has received approval from HUD.				X				2B
803 (H)(2)	Manufactured homes may be manufactured and installed, at the owner's option, to withstand greater than a 20 pound snow load. An installer or contractor shall install these units according to the manufacturer's instructions for the foundation support system if the instructions are consistent with this Chapter.				X				2B
803 (I)	Permanent Foundation Systems				X				2B

803 (1)(1)	An installer or contractor shall install factory-built buildings in compliance with R4-34-102(2).			X					2B
803 (1)(2)	An installer or contractor shall install manufactured and mobile homes according to the manufacturer's permanent foundation requirements or sealed engineered plans if the requirements or plans are consistent with this Chapter.			X					2B
804	UTILITIES			X				Covered in 24 CFR/HUD regulations	2B
804 (A)	Utility service facilities. An installer or contractor shall not enter into an agreement to connect units to utility service facilities that are not compatible with the units.			X					2B
804 (B)	Electric. An installer or contractor shall make all electric connections or installations according to the National Electric Code.			X					2B
804 (B)(1)	An installer or contractor shall connect manufactured or mobile homes using a piece of flexible metal conduit no greater than 36 inches and no less than 18 inches long. The installer or contractor shall use liquidtight, flexible metal conduit when a manufactured home is set at ground level or in a wet location. The installer or contractor shall connect the flexible metal conduit at the location so that only the rigid conduit emerges from the ground and the conduit extends at least 6 inches above ground level.			X					2B
804 (B)(2)	When service equipment is installed on a manufactured home, an installer or contractor shall install the grounding electrode in compliance with the National Electrical Code. The following items shall be installed according to the National Electrical Code:			X					2B
804 (B)(2)(a)	Feeder size according to Table 310.15(B)(6).			X					2B
804 (B)(2)(b)	Power supply cord according to 550.10, and			X					2B
804 (B)(2)(c)	Conduit according to Chapter 9 (including Annex C)			X					2B
804 (C)	Sewer. An installer or contractor shall make sewer connections or installations in compliance with the International Plumbing Code.			X					2B
804 (D)	Water. An installer or contractor shall make water connections or installations in compliance with the International Plumbing Code.			X					2B
804 (E)	Gas. An installer or contractor shall make gas connections or installations in compliance with the International Fuel Gas Code.			X					2B
804 (E)(1)	The installer or contractor shall perform a gas test with the gas appliance flex connectors capped and the valves in the open position. The installer or contractor shall pressurize the systems at 6 inches of mercury (45 ounces of mercury) or 3 psi gauge for 15 minutes. The system passes if there is no drop in pressure during the test. Pressure shall be measured with a mercury manometer or slope gauge calibrated in increments not greater than 1/10th of a pound, or an equivalent device. The source of normal operating pressure shall be isolated before the pressure test.			X					2B
804 (E)(2)	The flexible connector shall not be more than 6 feet long.			X					2B
804 (E)(3)	Flex connectors are not required for permanent foundations systems.			X					2B
804 (F)	Mechanical. An installer or contractor shall make mechanical connections and installations in compliance with the International Mechanical Code and the International Energy Conservation Code.			X					2B
805	Accessory Structures	X							N/A
805 (A)	For the purpose of A.R.S. § 2142 (1), the word "attached" means fastened to a manufactured or mobile home or residential single-family, factory-built building at the time of its installation and removable without degradation of the structural integrity of the unit.		X				For the purpose of A.R.S. § 41-4001 (1), the word "attached" means fastened by any means to a manufactured or mobile home or residential single-family FBB at the time of its installation.		2B
805 (B)	An installer or contractor shall install, assemble, or construct each accessory structure in compliance with applicable standards incorporated by reference in R4-34-102(3).		X						2B (Consolidates Rules)
805 (C)	An installer or contractor installing manufactured homes, mobile homes, or factory-built buildings shall provide an opening that permits access to the underfloor area. If the access is through the skirting, retaining wall, or perimeter foundation wall, the access opening shall measure at least 18 inches by 24 inches.			X				Covered in 24 CFR/HUD regulations	2B
805 (D)	The Department shall approve or reject plans as prescribed in R4-34-705.			X				Covered in R4-34-705	2B
805 (E)	Above or Below Grade Skirting			X					2B
805 (E) (1)	For all skirting, an installer or contractor shall:			X					2B
805 (E) (1) (a)	Provide an 18 inch by 24 inch minimum access crawl hole.			X					2B
805 (E) (1) (b)	Ventilate skirting according to the International Building Code or the International Residential Code, and			X					2B
805 (E) (1) (c)	Install skirting according to this Chapter or the manufacturer's instructions if the instructions are consistent with this Chapter.			X					2B
805 (E) (2)	For below grade skirting, an installer or contractor shall design and construct skirting as a retaining wall according to the International Building Code or the International Residential Code.			X			Modified as 805 (B), above		2B (Consolidates Rules)
1001	Rehearing or Review	X							N/A
1001 (A)	A party may amend a petition for rehearing or review filed under A.R.S. § 41-2184 at any time before it is ruled upon by the Director. The opposing party may file a response within 15 days after the date the petition or amended petition is filed. The Director may require the filing of written briefs explaining the issues raised in the petition and provide for oral argument.		X						N/A
1001 (B)	The Director may affirm or modify the decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in A.R.S. § 41-2184 (D). An order modifying the decision or granting a rehearing shall specify with particularity the grounds on which the modification or rehearing is granted, and any rehearing shall cover only those matters.		X						N/A

1001 (C)	When a petition for rehearing or review is based upon affidavits, they shall be served with the petition. An opposing party or the Attorney General may, within 10 days after service, serve opposing affidavits.	X						N/A
1001 (D)	Not later than 15 days after the date of the decision, the Director may grant a rehearing or review on the Director's own initiative for any reason for which the Director might have granted relief on the petition of a party. The Director may grant a petition for rehearing or review, timely served, for a reason not stated in the motion.	X						N/A

Board of Manufactured Housing
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 34. BOARD OF MANUFACTURED HOUSING

(Authority: A.R.S. § 41-2141 et seq.)

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ARTICLE 2. LICENSING

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ARTICLE 4. SURETY BONDS

Section
R4-34-401. Surety Bond Forms
R4-34-402. Cash Deposits
R4-34-403. Repealed
R4-34-404. Repealed

ARTICLE 5. FEES

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R4-34-501. General
R4-34-502. License Bond Amounts
R4-34-503. HUD Monitoring Inspection
R4-34-504. HUD Label Administration
R4-34-505. Plans and Supplements
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ARTICLE 6. MANUFACTURING, CONSTRUCTION, AND INSPECTION

Section
R4-34-601. Manufactured Homes
R4-34-602. Repealed
R4-34-603. Factory-built Buildings and FBB Subassemblies
R4-34-604. Alterations
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R4-34-607. Manufacturing Inspection and Certification

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ARTICLE 7. PLAN APPROVALS

Section

- R4-34-701. General
- R4-34-702. Quality Assurance Manuals
- R4-34-703. Drawings and Specifications
- R4-34-704. Alterations or Reconstruction
- R4-34-705. Accessory Structures and Ground Anchoring
- R4-34-706. Factory-built Building Installation

ARTICLE 8. PERMITS AND INSTALLATION

Article 8, consisting of Sections R4-34-801 through R4-34-805, adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999

Section

- R4-34-801. Permits
- R4-34-802. General Installation
- R4-34-803. Soil and Materials
- R4-34-804. Utilities
- R4-34-805. Accessory Structures

ARTICLE 10. ADMINISTRATIVE PROCEDURES

Section

- R4-34-1001. Rehearing or Review

ARTICLE 1. GENERAL

R4-34-101. Definitions

The definitions in A.R.S. §§ 41-2142, 41-2152, and 41-2157 apply to this Chapter. Additionally, in this Chapter:

1. "Act" means the Manufactured Housing Improvement Act of 2000, which is Title VI of the American Homeownership and Economic Opportunity Act of 2000.
2. "Agency" means, in a brokered transaction, the consensual relationship that exists between an agent and the seller or purchaser of a used home when either the purchaser or seller authorizes the agent and the agent agrees to the authorization in writing. A licensed salesperson may establish an agency relationship on behalf of the salesperson's licensed and employing retailer.
3. "Agency disclosure" means a document that specifies the party or parties that an agent represents in a brokered transaction as a seller's agent, purchaser's agent, or dual agent who represents both the seller and purchaser.
4. "Agent" means a licensed retailer or broker who is authorized to act on behalf of either the seller or purchaser of a used home or as a dual agent representing both.
5. "Branch location" means an office, unit, station, facility, or space at a fixed location other than a principal office, however designated, at which any business that may be conducted at the principal office is transacted.
6. "Brokered transaction" means a transaction in which a properly licensed broker acts as an agent for the seller, purchaser, or both.
7. "Co-brokered transaction" means a transaction in which the listing retailer and the selling retailer are not the same person.
8. "FBB" means factory-built building.
9. "Lease with option to purchase" means a lease under which the lessee has the right to purchase the leased property for a specified price and terms.
10. "New" means a unit or subassembly not previously sold, bargained, exchanged, or given away to a purchaser.
11. "Offer to purchase in a brokered transaction" means a written proposal to purchase a used home listed for sale that a broker presents to the seller for acceptance or rejection.
12. "Open subassembly" means that the components of the subassembly can be readily inspected without being disassembled.
13. "Permanent foundation" means a system of support and perimeter enclosure of crawl space that is:
 - a. Constructed of durable materials (e.g., concrete, masonry, steel, or treated wood);
 - b. Developed in accordance with the manufacturer's installation instructions or designed by a licensed professional engineer;
 - c. Attached in a manner that effectively transfers all vertical and horizontal design loads that could be imposed on the structure by wind, snow, frost, seismic, or flood conditions, as applicable, to the underlying soil or rock;
 - d. Designed to exclude unwanted elements and varmints, ensure sufficient ventilation, and provide adequate access to the building; and
 - e. Not anchoring straps or cable affixed to ground anchors other than footings.
14. "Purchase contract in a brokered transaction" means a written agreement between a purchaser and seller of a used home that indicates the sales price and terms of the sale.

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15. "Reconstruction" means construction work performed on a manufactured home, mobile home, or factory-built building for the purpose of restoring the unit to a usable condition, but does not include work limited to remodeling, replacing, or repairing appliances or components that will not significantly alter the systems or structural integrity of the living area.
16. "Respond" means to furnish the Office of Manufactured Housing or Office of Administration with a written explanation detailing any reasons why a complaint is not justified or the signature of the complainant indicating that the complainant is satisfied with the resolution of the verified complaint.
17. "Retailer" means a dealer or broker as prescribed at A.R.S. § 41-2142(9) and (5).
18. "Standards" means the materials incorporated by reference in R4-34-102.
19. "Supplement" means a submittal of not more than two sheets of paper that indicates floor plan dimensional sizes, does not change more than 25% of a system or configuration, and is incorporated as part of an originally approved plan.
20. "Technical service" means engineering assistance and interpretative application or clarification of compliance and enforcement of A.R.S. Title 41, Chapter 16, Articles 1, 2, and 4 and this Chapter.
21. "Typical plan" means a design plan that may be duplicated numerous times.
22. "Used home" means a used unit that is a previously titled manufactured home, mobile home, or factory-built building designed for use as a residential dwelling.

Historical Note

Former Section R4-34-101 renumbered to R4-34-102, new Section R4-34-101 adopted effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 13 A.A.R. 3582, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

R4-34-102. Materials Incorporated by Reference

The following materials, which the Board incorporates by reference, apply to this Chapter. The materials, which include no later amendments of editions, are available from the Board. If there is a conflict between the incorporated material and a statute or rule, the statute or rule controls.

1. HUD Manufactured Housing Program
 - a. 24 CFR 3280, Manufactured Home Construction and Safety Standards, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov;
 - b. 24 CFR 3282, Manufactured Home Procedural and Enforcement Regulations, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov;
 - c. 24 CFR 3284, Manufactured Housing Program Fee, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov;
 - d. 24 CFR 3285, Model Manufactured Home Installation Standards, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov;
 - e. 24 CFR 3286, Manufactured Home Installation Program, April 1, 2009, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov; and
 - f. 24 CFR 3288, Manufactured Home Dispute Resolution Program, April 1, 2008, edition, available from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, D.C. 20401 or bookstore.gpo.gov.
2. Factory-built Building Program
 - a. International Building Code (IBC), 2009 edition, available from the International Code Council, 4051 Flossmoor Road, Country Club Hills, IL 60478;
 - b. International Residential Code (IRC), 2009 edition, available from the International Code Council, 4051 Flossmoor Road, Country Club Hills, IL 60478;
 - c. International Mechanical Code (IMC), 2009 edition, available from the International Code Council, 4051 Flossmoor Road, Country Club Hills, IL 60478;
 - d. International Plumbing Code (IPC), 2009 edition, available from the International Code Council, 4051 Flossmoor Road, Country Club Hills, IL 60478;
 - e. International Fuel Gas Code (IFGC), 2009 edition, available from the International Code Council, 4051 Flossmoor Road, Country Club Hills, IL 60478;
 - f. International Energy Conservation Code (IECC), 2009 edition, available from the International Code Council, 4051 Flossmoor Road, Country Club Hills, IL 60478; and
 - g. National Electrical Code (NEC), 2008 edition, available from the National Fire Protection Association, One Batterymarch Park, Quincy, MA 02169.
3. Installation, Foundation, and Accessory Structures
 - a. Materials incorporated in subsections (1) and (2); and
 - b. Protecting Manufactured Homes from Floods and Other Hazards, publication 85, second edition, November 2009, available from the Federal Emergency Management Agency, 500 C. St. SW, Washington, D.C. 20472 or www.fema.gov.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective May 28, 1980 (Supp. 80-3). Amended effective October 20, 1981 (Supp. 81-5). Former Section R4-34-102 renumbered to R4-34-103, new Section R4-34-102 renumbered from R4-34-101 and amended effective July 3, 1991 (Supp. 91-3). Amended effective September 3, 1992 (Supp. 92-3). Section repealed by final

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rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

R4-34-103. Exceptions

- A. The Board makes the following exceptions to the materials incorporated by reference in R4-34-102:
1. International Building Code and International Residential Code. A water or gas connection may be a flexible connector if the flexible connector:
 - a. Is not more than 6 feet long,
 - b. Is of the rated size necessary to supply the total demand of the unit, and
 - c. Made of materials that comply with the International Plumbing Code and International Fuel Gas Code; and
 2. International Residential Code. Exclude Section R313, Automatic Fire Sprinkler Systems.
- B. Under A.R.S. § 41-2144(D), a local jurisdiction may petition the Board for an exception to a standard. The local jurisdiction shall ensure that the petition for an exception:
1. Specifies the standard or code sections affected;
 2. Justifies the requested exception with documented evidence of the local conditions that support the requested exception;
 3. Specifies the boundaries of the area affected by the local conditions;
 4. States why the exception is necessary to protect the health and safety of the public; and
 5. Provides an estimate of the economic impact that the requested exception will have on the petitioning jurisdiction, other affected governmental entities, the public, unit owners, and licensees, and the facts upon which the estimate is based.
- C. An exception ordered by the Board applies only within the jurisdiction that petitioned for the exception. The jurisdiction shall comply with any conditions specified in the exception order.
- D. An exception order is effective on the date specified in the order, which will be at least 60 days after a Departmental Substantive Policy has been issued to all licensed installers describing the exception, the area within which it applies, and any provisions applicable to its use.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective December 13, 1979 (Supp. 79-6). Amended subsection (A), paragraph (5) effective September 17, 1980 (Supp. 80-5). Amended effective October 20, 1981 (Supp. 81-5). Amended subsection (A), paragraph (2) effective August 29, 1983 (Supp. 83-4). Former Section R4-34-103 renumbered to R4-34-104, new Section R4-34-103 renumbered from R4-34-102 and amended effective July 3, 1991 (Supp. 91-3). Amended effective September 3, 1992 (Supp. 92-3). Amended effective December 14, 1994 (Supp. 94-4). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

R4-34-104. Workmanship Standards

- A. All work shall be performed in a professional manner.
- B. All work shall be performed in accordance with any applicable building code and professional industry standards.
- C. If there is a conflict between professional standards and building code requirements, the latter will prevail.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended subsection (A) effective February 18, 1981 (Supp. 81-1). Amended subsection (A), paragraph (2) effective August 29, 1983 (Supp. 83-4). Amended subsection (A)(2)(d) effective July 18, 1984 (Supp. 84-4). Former Section R4-34-104 renumbered to R4-34-105, new Section R4-34-104 renumbered from R4-34-103 and amended effective July 3, 1991 (Supp. 91-3). Amended effective September 3, 1992 (Supp. 92-3). Amended effective April 12, 1994 (Supp. 94-2). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4).

ARTICLE 2. LICENSING

R4-34-201. General

- A. An administrative review of the application shall be performed within five business days of receipt of an application. The Deputy Director shall issue a conditional license within 14 business days of the Department's receipt of the completed license application and written evidence that the applicant has passed any required license examination. The five day administrative completeness and 14 day substantive review time-frames provide an overall time-frame of 19 days excluding time requirements that are the responsibility of the applicant.
- B. Corporate applicants shall submit a copy of the articles of incorporation, and all amendments to the articles filed with the Arizona Corporation Commission, or, if a foreign corporation, the application for authority to transact business.
- C. When a retailer or installer licensee changes its legal entity but remains within the scope of the license and retains the same qualifying party, the licensee may request an exemption from any applicable testing requirement, provided the license is in good standing.
- D. Upon receipt and review of the applicant's criminal background analysis by the Deputy Director of the Office of Administration, and upon mailing notification to the applicant, the previously issued conditional license is automatically effective as a permanent license to transact business within the scope of the license.

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Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective May 9, 1980 (Supp. 80-3). Amended subsection (B) effective January 20, 1981. Amended subsection (B) effective February 18, 1981 (Supp. 81-1). Amended subsection (B) effective April 23, 1981 (Supp. 81-2). Amended effective October 20, 1981 (Supp. 81-5). Correction, subsection (B)(6)(a) 1979 Edition (Supp. 81-6). Former Section R4-34-201 renumbered and amended as Section R4-34-202, new Section R4-34-201 adopted effective September 15, 1982 (Supp. 82-5). Amended subsection (A), paragraph (2) effective August 11, 1986. Amended by adding subsection (F) effective August 25, 1986 (Supp. 86-4). Amended effective July 3, 1991 (Supp. 91-3). Amended effective September 3, 1992 (Supp. 92-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1).

R4-34-202. Manufacturers

The Department shall place a manufacturer's license application into one of the following license classes, based on the listed activities that limit the scope of each class:

1. M-9A Manufacturer of Factory-Built Buildings and FBB Subassemblies:
 - a. Manufactures factory-built buildings and FBB subassemblies, or
 - b. Reconstructs factory-built buildings and FBB subassemblies.
2. M-9C Manufacturer of Manufactured Homes:
 - a. Manufactures manufactured homes.
 - b. Reconstructs manufactured homes.
3. M-9E Master Manufacturer: Performs work within the scope of classes M-9A and M-9C.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended subsections (A) and (C) effective February 18, 1981 (Supp. 81-1). Amended subsections (C) and (D) effective May 20, 1981 (Supp. 81-3). Amended subsections (B) and (D) effective October 20, 1981 (Supp. 81-5). Former Section R4-34-202 renumbered and amended as Section R4-34-203, former Section R4-34-201 renumbered and amended as Section R4-34-202 effective September 15, 1982 (Supp. 82-5). Amended subsections (B)(3), (B)(4)(b), and (B)(5)(a), by updating the Codes from 1979 Edition to 1982 Edition effective July 8, 1983 (Supp. 83-4). Amended by adding subsection (B)(6)(ii) effective February 14, 1984 (Supp. 84-1). Amended subsection (B)(6)(b) effective November 27, 1984 (Supp. 84-6). Amended effective April 4, 1986 (Supp. 86-2). Amended subsection (B) effective August 11, 1986 (Supp. 86-4). Amended effective July 3, 1991 (Supp. 91-3). Amended effective September 3, 1992 (Supp. 92-3). Amended effective April 12, 1994 (Supp. 94-2). Amended effective November 1, 1995 (Supp. 95-4). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1).

R4-34-203. Retailers

The Department shall place a retailer's license application into one of the following license classes, based on the listed activities that limit the scope of each class:

1. D-8 Retailer of Manufactured Homes or Mobile Homes:
 - a. Buys, sells, or exchanges new or used manufactured homes, mobile homes, or accessory structures;
 - b. Acts as an agent for the sale or exchange of used manufactured homes, mobile homes, or accessory structures;
 - c. Makes alterations to new manufactured homes before a sale to a purchaser under R4-34-604; or
 - d. Contracts with properly licensed installers or contractors for the installation of manufactured homes, mobile homes, or accessory structures.
2. D-8B Broker of Manufactured Homes or Mobile Homes:
 - a. Acts as an agent for the sale or exchange of used manufactured homes or mobile homes, or
 - b. Contracts with properly licensed installers or contractors for the installation of manufactured homes, mobile homes, or accessory structures.
3. D-10 Retailer of Factory-Built Buildings and FBB Subassemblies:
 - a. Buys, sells, or exchanges new or used factory-built buildings and FBB subassemblies;
 - b. Acts as an agent for the sale or exchange of new or used factory-built buildings and FBB subassemblies;
 - c. Makes alterations to new factory-built buildings and FBB subassemblies before a sale to a purchaser; or
 - d. Contracts with properly licensed installers or contractors for the installation of factory-built buildings, FBB subassemblies, and residential single-family factory-built buildings, or accessory structures.
4. D-12 Master Retailer: Performs work within the scope of classes D-8, D-8B, and D-10.

Historical Note

Former Section R4-34-202 renumbered and amended as Section R4-34-203 effective September 15, 1982 (Supp. 82-5). Amended subsections (A)(1), (A)(2), and (A)(3) by updating the Codes from 1979 Edition to the 1982 Edition effective July 8, 1983 (Supp. 83-4). Amended subsection (A)(4) effective November 27, 1984 (Supp. 84-6). Amended by adding subsection (D) with Exhibits 1, 2, and 3 effective January 2, 1985 (Supp. 85-1). Amended subsection (D) effective April 4, 1986 (Supp. 86-2). Amended subsection (B) effective August 11, 1986 (Supp. 86-4). Amended effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective De-

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December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1).

R4-34-204. Installers

- A.** The Department shall place an installer's license application into one of the following license classes, based on the listed activities that limit the scope of each class:
1. I-10C General Installer of Manufactured Homes, Mobile Homes, or Residential Single-Family Factory-Built Buildings:
 - a. Installs manufactured homes, mobile homes, or residential single-family factory-built buildings on foundation systems;
 - b. Installs ground anchors and tie down manufactured homes or mobile homes;
 - c. Connects water, sanitary waste, gas, and electrical systems of all amperages to the proper onsite utility terminals provided by others;
 - d. Installs evaporative coolers and cooler systems on manufactured homes, mobile homes, or residential single-family factory-built buildings;
 - e. Installs roof jack to cooler ducts;
 - f. Installs duct work;
 - g. Provides electrical service and controls to cooler from nearest supply source;
 - h. Provides water to the cooler from the nearest fresh water source; or
 - i. Performs work as indicated under manufacturer's warranty for the unit.
 2. I-10D Installer of Accessory Structures attached to Manufactured Homes, Mobile Homes, or Residential Single-Family Factory-Built Buildings:
 - a. Installs prefabricated accessory structure units;
 - b. Constructs accessory structures onsite;
 - c. Places concrete footings or slabs for accessory structures; or
 - d. Contracts with properly licensed contractors for the installation of plumbing, electrical, and mechanical equipment as part of an accessory structure and subcontracts all or any part of the items within this subsection to properly licensed installers or contractors.
 3. I-10G Master Installer of Manufactured Homes, Mobile Homes, or Residential Single-Family Factory-Built Buildings:
 - a. Performs work within the scope of classes I-10C and I-10D,
 - b. Installs evaporative cooling units and refrigeration air conditioning units, or
 - c. Subcontracts with properly licensed installers or contractors.
- B.** Installer applicants. In addition to meeting the applicable requirements in subsections (A)(1) through (3), an applicant for an installer I-10C, I-10D, or I-10G license shall:
1. Have a minimum of three years practical or field management experience in the specific type of installation, a related construction field, or the equivalent, for which the applicant is applying. At least two of the three years experience shall be within 10 years of the date of application. The applicant may substitute technical training in the specific type of installation, a related construction field, or the equivalent, from an accredited college or university or from a Department of Fire, Building and Life Safety workshop for no more than one year of the three years experience required in this subsection;
 2. Supply a written, notarized statement from each employer or other individual familiar with the applicant's employment or other work experience, which includes the name, address, and telephone number of the individual making the statement, the dates of the applicant's employment or other work experience, a description of the position held, and a notarial certificate, indicating that the signer vouches for the truthfulness of the statement as proof of meeting the experience requirement in subsection (B)(1); and
 3. Supply a certified copy of each official transcript or certificate, demonstrating successful completion of any technical training the applicant wishes the Department to consider as proof of meeting the experience requirement in subsection (B)(1).

Historical Note

Adopted effective November 27, 1984 (Supp. 84-6). Repealed effective September 3, 1992 (Supp. 92-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 13 A.A.R. 3582, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1).

ARTICLE 3. SALES TRANSACTIONS AND TRUST OR ESCROW ACCOUNT

R4-34-301. Transaction Copies

- A.** In all retail transactions, the retailer shall provide the purchaser with completed and signed copies of all documents pertaining to the transaction.
- B.** In all brokered transactions, each broker shall provide the client with completed and signed copies of all documents pertaining to the transaction.
- C.** In a brokered transaction where the purchaser is not represented by an agent, the listing broker shall provide the purchaser with completed and signed copies of all documents pertaining to the transaction.
- D.** In a co-brokered transaction, the listing broker shall provide a copy of the listing agreement to the selling broker, and the selling broker shall provide a copy of all documents pertaining to the transaction to the listing broker.
- E.** A retailer or broker shall maintain records containing all transaction documents.

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Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended subsections (A) and (C) effective October 20, 1981 (Supp. 81-5). Amended by adding subsection (D) effective April 20, 1982 (Supp. 82-2). Former Section R4-34-301 renumbered to R4-34-701, new Section R4-34-301 renumbered from R4-34-701 and amended effective July 3, 1991 (Supp. 91-3). Amended effective September 3, 1992 (Supp. 92-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4).

R4-34-302. Advertising

- A. A retailer or broker shall include the retailer's licensed business name in all advertising.
- B. A broker shall not advertise or market a used home for more than the listed price.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective March 17, 1981 (Supp. 81-2). Amended subsections (A) and (C) effective October 20, 1981 (Supp. 81-5). Former Section R4-34-302 renumbered to R4-34-702, new Section R4-34-302 renumbered from R4-34-702 and amended effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4).

R4-34-303. Brokered Transactions

- A. A broker shall provide a copy of the agency disclosure to the party or parties being represented.
- B. The seller's broker shall place all earnest money deposits received in connection with a sales transaction in the broker's trust or escrow account in accordance with A.R.S. § 41-2180.
- C. Upon consummation of a brokered transaction, the seller's broker shall provide the seller with a closing statement that includes an accounting of all expenses charged to the seller, all pro rations, and all credits.
- D. Upon consummation of a brokered transaction, the purchaser's broker shall provide the purchaser with a closing statement that includes an accounting of all expenses charged to the purchaser, all pro rations, and all credits.
- E. In a co-brokered transaction, the seller shall pay the commission shown on the listing agreement as the total commission.
- F. The seller's broker shall prepare an addendum to the listing agreement if any of the terms of the listing agreement change. The seller's signature is required for the addendum to be valid. The addendum to the listing agreement shall reflect the date that the seller signs the addendum to the listing agreement.
- G. Should the seller elect to finance the unpaid balance reflected on the offer to purchase or purchase contract, the agent shall:
 - 1. Maintain evidence of the original portion of the purchase price being financed by the seller or agent, and
 - 2. Maintain evidence that the title has been transferred into the name of the purchaser and that the lienholder's position has been secured on the title.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective March 17, 1981 (Supp. 81-2). Amended effective October 20, 1981 (Supp. 81-5). Former Section R4-34-303 renumbered to R4-34-703, new Section R4-34-303 renumbered from R4-34-703 and amended effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4).

ARTICLE 4. SURETY BONDS

R4-34-401. Surety Bond Forms

Manufacturers, installers, and retailers except brokers of manufactured homes, mobile homes, or residential single-family factory-built buildings, shall submit the applicable surety bond amount from the list in R4-34-502, with a form provided by the Office of Administration.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended subsection (A) effective October 20, 1981 (Supp. 81-5). Amended subsection (B) effective April 30, 1982 (Supp. 82-2). Former Section R4-34-401 renumbered to R4-34-501, new Section R4-34-401 renumbered from R4-34-901 and amended effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1).

R4-34-402. Cash Deposits

- A. Except for applicants exempt under R4-34-401, any applicant for a license or renewal of a license who desires to post cash in place of a commercial surety bond shall deposit the applicable amount with the Deputy Director of the Office of Administration using any one of the following payment methods:
 - 1. Cash,
 - 2. Certified check payable to the State Treasurer,
 - 3. Cashier's check payable to the State Treasurer,
 - 4. Bank money order payable to the State Treasurer, or
 - 5. Postal money order payable to the State Treasurer.
- B. Upon the receipt by the Deputy Director of the Office of Administration of an order from any court for the payment of funds on deposit, the Deputy Director shall make payment according to the court order, at which time the license is suspended under A.R.S. §

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41-2179, if applicable. In order to reinstate the license, the licensee shall return the cash deposit to the required balance or, as an alternative, file a commercial surety bond for the full amount and pay all applicable reinstatement fees.

- C. The cash deposit is not transferable.
- D. The applicant shall make the cash deposit in the name of the applicant as it appears on the license application.
- E. The applicant may withdraw the cash deposit under the following circumstances:
 - 1. The license is not issued;
 - 2. The license has been terminated for two years or more by expiration, revocation, or voluntary cancellation, and there are no outstanding claims against the deposit; and
 - 3. Two years after an applicant files a commercial surety bond as a replacement for the cash deposit, if there are no outstanding claims.
- F. Upon written request and subsequent approval by the Deputy Director of the Office of Administration, a cash deposit may be withdrawn by the owner of a sole proprietorship, any partner of a partnership, any person with written evidence of authority to withdraw the cash deposit for a corporation, and any other person who can establish legal right to the cash deposit.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Former Section R4-34-402 renumbered to R4-34-502, new Section R4-34-402 renumbered from R4-34-902 effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1).

ARTICLE 5. FEES

R4-34-501. General

- A. The Board shall establish a fee schedule before May 15 for the coming fiscal year.
- B. The Deputy Director of the Office of Administration shall notify all licensees of the established fee schedule before June 1 of each year.
- C. Licensees shall pay fees for the following services and may request a fee schedule from the Office:
 - 1. Manufacturer license,
 - 2. Retailer license,
 - 3. Installer license,
 - 4. Salesperson license,
 - 5. Inspection and technical service,
 - 6. Plans and supplements,
 - 7. Installation permits and insignias, or
 - 8. Administrative functions.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended M-9B, M-9C, and M-9E effective October 20, 1981 (Supp. 81-5). Amended by adding M-9F effective April 30, 1982 (Supp. 82-2). Former Section R4-34-501 renumbered to R4-34-801, new Section R4-34-501 renumbered from R4-34-401 and amended effective July 3, 1991 (Supp. 91-3). Amended effective December 14, 1994 (Supp. 94-4). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1).

R4-34-502. License Bond Amounts

- A. An applicant shall submit the applicable license bond amount listed for each license class.

License Class	Bond Amount
M-9A	\$10,000.00
M-9C	\$65,000.00
M-9E	\$100,000.00
D-8	\$25,000.00
D-10	\$25,000.00
D-12	\$25,000.00
I-10C	\$2,500.00
I-10D	\$1,000.00
I-10G	\$5,000.00

- B. The Board shall not renew a license unless the applicant's surety bond or cash deposit is in full force and effect.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended D-8, D-8A, D-9, D-12 and added D-8B effective October 20, 1981 (Supp. 81-5). Amended D-8 effective January 31, 1983 (Supp. 83-1). Former Section R4-34-502 renumbered to R4-34-802, new Section R4-34-502 renumbered from R4-34-402 and amended effective July 3, 1991 (Supp. 91-3). Amended effective December 14, 1994 (Supp. 94-4). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1).

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R4-34-503. HUD Monitoring Inspection

Each manufactured home manufacturer shall pay a fee as established by the U.S. Department of Housing and Urban Development for each unit manufactured in this state. This fee shall be made payable to the Secretary of HUD for purchase of HUD labels. This fee is in addition to the inspection fee required by R4-34-501(C)(5).

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended I-10D effective August 21, 1981 (Supp. 81-4). Amended effective October 20, 1981 (Supp. 81-5). Correction, I-10G (Supp. 81-6). Former Section R4-34-503 renumbered to R4-34-803, new Section R4-34-503 renumbered from R4-34-403 and amended effective July 3, 1991 (Supp. 91-3). Amended effective December 14, 1994 (Supp. 94-4). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4).

R4-34-504. HUD Label Administration

In addition to the fees required under R4-34-501(C), each manufactured home manufacturer shall pay to the Office of Administration a fee of \$5 for each label issued in this state.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4).

R4-34-505. Plans and Supplements

If a plan or supplement submitted is not acceptable and the licensee fails to supply a complete and correct submittal within 60 days after the date on the notification letter, the Department shall treat the submittal fee originally paid by the licensee as forfeited and return the submittal. Resubmissions shall be accompanied by a new submittal fee.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4).

R4-34-506. Intergovernmental Agreement Permits

The permit fee charged by local enforcement agencies participating in the Installation Inspection Program shall not exceed the amount established by the Board for the same service.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4).

ARTICLE 6. MANUFACTURING, CONSTRUCTION, AND INSPECTION

R4-34-601. Manufactured Homes

A manufacturer shall build a manufactured home according to the standards in R4-34-102.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended subsection (C) effective October 20, 1981 (Supp. 81-5). Amended by adding M-9F effective April 30, 1982 (Supp. 82-2). Amended subsection (C) effective June 18, 1982 (Supp. 82-3). Amended effective July 3, 1991 (Supp. 91-3). Amended effective December 14, 1994 (Supp. 94-4). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

R4-34-603. Factory-built Buildings and FBB Subassemblies

A. A manufacturer shall construct a factory-built building or a FBB subassembly according to the applicable standards in R4-34-102(2) and

- :
1. Provide a complete set of drawings and specifications to the Department under R4-34-703(B);
 2. Affix a permanent serial number to each unit during the first stage of manufacturing. If a unit has multiple sections, the manufacturer shall ensure that each section is separately identified. The serial number location and application method shall be shown in the plans required under R4-34-703(B)(7); and
 3. Affix an Arizona Insignia of Approval to each completed section. The insignia shall indicate the unit serial number and plan approval number, and be located on the unit as indicated in the plans required under R4-34-703(B)(8).
- B. A manufacturer of a non-residential factory-built building or a FBB subassembly shall comply with 10 A.A.C. 3 relating to the Americans with Disabilities Act Accessibility Guidelines (ADAAG).
- C. The Department may require that a manufacturer of a factory-built building or FBB subassembly produced and shipped before plan approval remove the unit from this state and remove insignias based on the following factors:
1. Probable harm to the public's safety and welfare,
 2. Number of previous violations of a similar nature, and
 3. Unwillingness of the manufacturer to comply with plan submittal and requirements.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8,

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1999 (Supp. 99-4). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

R4-34-604. Alterations

A retailer shall ensure that alterations are consistent with applicable standards and codes, as prescribed in R4-34-704(A).

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective June 13, 1980 (Supp. 80-3). Amended effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1).

R4-34-605. Reconstruction

A manufacturer shall ensure that reconstruction is consistent with applicable codes, as prescribed in R4-34-704(B).

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective April 21, 1982 (Supp. 82-2). Amended effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4).

R4-34-606. Rehabilitation of Mobile Homes

- A.** A rehabilitation permit shall be obtained from the office prior to any modification of the unit.
- B.** The following requirements shall be met for a mobile home to be issued a certificate of compliance:
 - 1. A smoke detector (which may be a single station alarm device) shall be installed on any wall in a hallway or space connecting bedroom(s) and living areas. When located in a hallway the detector shall be between the return air intake and the living area. Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located between 4 inches to 12 inches below the ceiling;
 - 2. The walls, ceilings, and doors of each gas fired furnace and water heater compartment shall be lined with 5/16 inch gypsum board, unless the door opens to the exterior of the unit in which case the door may be all metal construction. All exterior compartments shall seal to the interior of the unit;
 - 3. Each room designated expressly for sleeping purposes shall have at least one outside egress window or approved exit device, unless it has an exterior exit door. The window or exit shall have a minimum clear dimension of 22 inches and a minimum clear opening of 5 square feet. The bottom of the exit shall not be more than 36 inches above the floor;
 - 4. All electrical systems shall be tested for continuity to assure that metallic parts are properly bonded, tested for operation to demonstrate that all equipment is connected and in working order, and given a polarity check to determine that connections are proper. The electrical system shall be properly protected for the required amperage load. If the unit wiring is of aluminum conductors, all receptacles and switches rated 20 amperes or less directly connected to the aluminum conductors shall be marked CO/ALR. Exterior receptacles other than heat tape receptacles, shall be of the ground fault circuit interrupter (GFI) type. Conductors of dissimilar metals (Copper/Aluminum/or Copper Clad Aluminum) must be connected in accordance with NEC Section 110-14; and
 - 5. The unit's gas piping shall be tested with the appliance valves removed from the piping system and piping capped at those areas. The piping system shall withstand a pressure of at least 6 inch mercury or 3 psi gauge for a period of not less than 10 minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or a slope gauge calibrated so as to read in increments of not greater than 1/10th pound or equivalent device. The source of normal operating pressure shall be isolated before the pressure test is made. After the appliance connections are reinstalled, the piping system and connections shall be tested with line pressure of not less than 10 inches nor more than 14 inches water column air pressure. The appliance connections shall be tested for leakage with soapy water or bubble solution. All gas furnaces and water heaters shall be vented to the exterior in accordance with UMC Chapter 8.
- C.** The unit shall be inspected by the office to ascertain compliance with subsection (B).
- D.** The office shall issue a certification of compliance for each unit in compliance with subsection (B), and affix an insignia of approval to the exterior wall nearest the point of entrance of the electrical service.
- E.** Upon request the office shall issue a waiver for a unit that does not qualify as a mobile home. The category of the unit shall be determined by inspection of the unit or presentation of acceptable documents. The waiver fee is applicable if the category of the unit can be determined to qualify for exemption. If an inspection of the unit is necessary to determine its category, the inspection fee shall apply.
- F.** A person served with a correction notice shall make the required corrections within the time period specified in the notice. The time period shall be determined by the office based on the severity of the hazard or violation in the time reasonably needed to make the correction. A minimum of 30 days shall be allowed unless an imminent safety hazard is found, or if the correction has been unreasonably delayed. In either event an Order to Vacate shall be issued to the person occupying the unit.
- G.** A person occupying a non-rehabilitated unit shall be served with an Order to Vacate that unit within 5 days if on inspection the unit is found to contain an imminent safety hazard.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective August 13, 1980 (Supp. 80-4). Amended effective October 20, 1981 (Supp. 81-5). Amended effective January 31, 1986 (Supp. 86-1). Amended effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R.

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145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1).

R4-34-607. Manufacturing Inspection and Certification

- A. The Department shall conduct manufactured home plant certification under R4-34-102(1).
- B. Before issuing insignias the Department shall certify that each manufacturing facility of factory-built buildings or FBB subassemblies is capable of manufacturing the units or subassemblies to the specifications in the approved drawings and the quality assurance manual.
- C. Unit certification:
 - 1. The Department shall conduct manufactured home certification under R4-34-102(1); and
 - 2. Each manufacturer of factory-built buildings, FBB subassemblies, and reconstructed units shall certify compliance with approved plans by affixing an Arizona Insignia of Approval to each unit or subassembly before delivery to a retailer.
- D. Records and reporting:
 - 1. Each manufacturer of manufactured homes shall report affixing HUD labels, complete any other required reports, and establish and maintain records required under R4-34-102(1); and
 - 2. Each manufacturer of factory-built buildings, reconstructed units, and FBB subassemblies shall report to the Department affixing Arizona Insignias of Approval by the 15th day of each month.
- E. The Department shall decertify a production facility for any one of the following reasons:
 - 1. An inspector identifies a serious defect existing in more than one unit;
 - 2. An inspector identifies three or more repetitive failures to specifications in the approved plans, codes, or quality assurance manual;
 - 3. A licensee within this state fails to produce approved units for more than six consecutive months; or
 - 4. An out-of-state licensee fails to file quarterly inspection reports for a period of six consecutive months.
- F. Recertification is required upon decertification of a production facility.
 - 1. The Department shall evaluate the production process to assure the manufacturer's procedures are consistent with the approved plans, codes, and quality assurance manual at every stage of production.
 - 2. Upon the manufacturer's successful completion of the recertification process, the Department shall issue insignias to the manufacturer.
- G. Inspection of retailer lots:
 - 1. The Department shall conduct regular inspections of retailer lots to assure compliance with approved plans, standards, and A.R.S. § 41-2195.
 - 2. The Department may require that a manufacturer of units produced and shipped before plan approval remove the units from this state and remove insignias based on the following factors:
 - a. Probable harm to the public's safety and welfare,
 - b. Number of previous violations of a similar nature, and
 - c. Unwillingness of the manufacturer to comply with plan submittal and requirements.

Historical Note

Adopted effective June 23, 1980 (Supp. 80-3). Amended effective October 20, 1981 (Supp. 81-5). Amended effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

ARTICLE 7. PLAN APPROVALS

R4-34-701. General

- A. Before construction of a unit or subassembly, a manufacturer shall submit to the office:
 - 1. The quality assurance manual required by R4-34-702, and
 - 2. The drawings and specifications required by R4-34-703.
- B. Before performance of any alteration, a retailer shall obtain plan approval under R4-34-704(A).
- C. Before installing an accessory structure or ground anchors for a manufactured home, mobile home, or residential single-family factory-built building, an installer shall obtain plan approval under R4-34-705.
- D. Before reconstructing a manufactured home or factory-built building, a manufacturer shall obtain plan approval under R4-34-704(B).
- E. Before the installation of a factory-built building a person installing the building shall obtain plan approval under R4-34-706.
- F. The Department shall determine whether a submittal is administratively complete within 20 business days after receipt of a submittal. The Department shall review all plans within 20 business days after receipt of a complete submittal. The overall time-frame for plan approval is 40 days, excluding time for requirements that are the responsibility of the applicant.
- G. A manufacturer, retailer, or installer shall provide an original and one copy of each submittal.
- H. A manufacturer, retailer, or installer shall update each plan so that it is consistent with current standards and codes adopted by the Board. Supplements are acceptable for this purpose.
- I. Plans submitted shall be stamped by an engineer registered by the State of Arizona.

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Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective December 13, 1979 (Supp. 79-6). Amended by adding subsection (K) effective July 8, 1981 (Supp. 81-4). Amended subsections (A), (G), and (K), and added subsection (L) effective October 20, 1981 (Supp. 81-5). Correction, subsection (G)(3) (Supp. 81-6). Amended subsection (C) effective January 31, 1983 (Supp. 83-1). Amended subsection (B) effective May 23, 1983 (Supp. 83-3). Amended effective April 5, 1985 (Supp. 85-2). Former Section R4-34-701 renumbered to R4-34-301, new Section R4-34-701 renumbered from R4-34-301 and amended effective July 3, 1991 (Supp. 91-1). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1).

R4-34-702. Quality Assurance Manuals

- A. A manufacturer of manufactured homes shall prepare the quality assurance manual required by R4-34-102(1).
- B. A manufacturer of factory-built buildings and FBB subassemblies shall prepare a quality assurance manual that has all of the following attributes:
 - 1. Format:
 - a. 8 1/2 by 11 inch size,
 - b. An index page, and
 - c. Revision traceability.
 - 2. Contents:
 - a. An organization chart, by position, of all quality control personnel responsible for compliance of incoming components and in-plant manufacturing activities;
 - b. A description of the quality assurance program adhered to by personnel listed on the organization chart;
 - c. A flow chart depicting the minimum in-plant inspection requirements, using stations, a production control routing document, stage of manufacture or type of work control, or an equivalent method of in-plant inspection;
 - d. A description of tests performed and test equipment used;
 - e. A description of procedures for receiving and inspecting construction materials, handling damaged material, and rotating stock;
 - f. A description of procedures for control of drawings and insignias; and
 - g. A description of recordkeeping procedures.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective May 9, 1980 (Supp. 80-3). Amended subsections (B), (C), (D) effective October 20, 1981 (Supp. 81-5). Amended by adding subsection (E) effective January 20, 1982 (Supp. 82-1). Amended by adding subsection (C), paragraph (3) and subsection (D), paragraph (3) effective April 30, 1982 (Supp. 82-2). Amended effective April 5, 1985 (Supp. 85-2). Former Section R4-34-702 renumbered to R4-34-302, new Section R4-34-702 renumbered from R4-34-302 and amended effective July 3, 1991 (Supp. 91-1). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

R4-34-703. Drawings and Specifications

- A. A manufacturer of manufactured homes shall submit drawings and specifications that comply with applicable standards in R4-34-102(1).
- B. A manufacturer of factory-built buildings or FBB subassemblies shall submit plans that comply with the applicable standards in R4-34-102(2). The plans shall provide or have the following information or format attributes:
 - 1. A set of drawings, process descriptions, component lists, shop drawings, or other documents that specify and identify each component, process, assembly operation, and manufacturing step;
 - 2. A complete set of dimensional views designating the location of all processes performed in the manufacture of the unit or subassembly;
 - 3. A complete listing of all components and subassemblies by cross identification to usage;
 - 4. A traceable identification for each component and subassembly listed;
 - 5. A complete listing of all processes by cross identification to usage;
 - 6. An onsite foundation specification for each unit for a given soil bearing capacity;
 - 7. The location and process for stamping the permanent serial number; and
 - 8. The location of the Arizona Insignia of Approval.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective December 13, 1979 (Supp. 79-6). Amended effective May 9, 1980. Amended effective June 23, 1980 (Supp. 80-3). Amended subsection (G) effective July 29, 1980 (Supp. 80-4). Amended effective October 20, 1981 (Supp. 81-5). Amended subsection (B)(1) effective July 20, 1984 (Supp. 84-4). Amended effective April 5, 1985 (Supp. 85-2). Former Section R4-34-703 renumbered to R4-34-303, new Section R4-34-703 renumbered from R4-34-303 and amended effective July 3, 1991 (Supp. 91-1). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended

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by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

R4-34-704. Alterations or Reconstruction

A. Alterations.

1. A retailer or broker performing any alteration on a unit shall send notice of the alteration to the manufacturer of the unit.
2. A retailer or broker performing an alteration on a unit shall prepare a detailed set of drawings and specifications that depict all aspects of the alteration and any serial numbers of the unit.
3. A retailer or broker shall ensure that manufactured home plans comply with the manufactured home construction and safety standards prescribed in R4-34-102(1).
4. A retailer or broker shall ensure that factory-built building and FBB subassembly plans comply with R4-34-703(B).

B. Reconstruction.

1. A manufacturer shall comply with the standards in R4-34-102(2) when preparing reconstruction plans.
2. A manufacturer preparing reconstruction plans shall prepare a detailed set of drawings and specifications that depict all aspects of the reconstruction and contain the serial number of the unit.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended subsection (F) effective August 28, 1980 (Supp. 80-4). Amended effective October 20, 1981 (Supp. 81-5). Amended effective April 5, 1985 (Supp. 85-2). Former Section R4-34-704 renumbered to R4-34-304, new Section R4-34-704 renumbered from R4-34-304 and amended effective July 3, 1991 (Supp. 91-1). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

R4-34-705. Accessory Structures and Ground Anchoring

A. Accessory structures.

1. For commercial factory-built buildings, an installer shall comply with the International Building Code when preparing accessory structure plans. For residential single-family factory-built buildings, an installer shall comply with the International Residential Code when preparing accessory structure plans.
2. The Department may approve a design that does not comply with the International Building Code or the International Residential Code based on a demonstration by an Arizona Registered Engineer that the design is engineered to standards at least equivalent to those in the applicable code.
3. An installer shall submit plans for all accessory structures except skirting, evaporative coolers, refrigeration, air conditioning systems, and storage rooms of less than 120 square feet.

B. Ground anchoring plans shall be certified by a registered engineer or approved by the Office of Manufactured Housing so that anchoring systems resist overturning and lifting effects of the wind.

1. An installer shall comply with the applicable requirements in R4-34-102 or the manufacturer's installation manual when preparing ground anchoring plans. If neither apply, the Department shall compare the plans to those of an equivalent, current installation to determine whether the plans are approvable.
2. The plans shall be of sufficient detail and description that all materials, dimensions, and processes can be readily identified.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1).

R4-34-706. Factory-built Building Installation

A. An installer shall complete and submit an application form obtained from the Department.

B. An installer shall include the following in the installation plans:

1. The site plans, including the location of the building and location of all utility lines;
2. The foundation plans, including:
 - a. A description of the soil class and the soil bearing pressure;
 - b. Footings designed to meet the minimum bearing pressure at the depth required;
 - c. A complete set of drawings indicating dimensions and details of the foundation footing and anchoring; a complete list of materials, and a cross-identification of how materials will be used, in the appropriate view; and
 - d. Calculations, prepared by an engineer, for all load conditions, including wind loads for horizontal loads, uplift loads, overturning; and horizontal and torsional earthquake effects on foundations.
3. Electrical drawings, including the isometric one-line diagram required by R4-34-102(2)(g), that contain the following information:
 - a. Size and type of conductors, length of feeders, and all amperage;
 - b. Dimensions of gutterways and raceways;
 - c. Complete details of panelboards, switchboards, and distribution centers; and
 - d. All grounding and bonding connections.
4. Plumbing drawings, including any one-line diagrams required by R4-34-102(2)(d) and (e) that contain the following information:

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- a. Location of sewer tap, water meter, and gas meter;
- b. Size, length, and all materials for sewer, water, and gas lines; and
- c. Location of all cleanouts and grade of sewer line.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

ARTICLE 8. PERMITS AND INSTALLATION

R4-34-801. Permits

- A. A licensee or consumer shall obtain a permit for the installation of manufactured homes, mobile homes, factory-built buildings, accessory structures, or rehabilitation of mobile homes.
- B. The Department shall issue or deny a permit within seven business days from the date the application is received.
- C. A licensee or consumer shall obtain a permit before beginning any work and post the permit in a conspicuous location onsite. The licensee who contracts to install a unit or a licensed installer who subcontracts to perform the installation shall verify that a valid installation permit has been obtained before beginning the installation.
- D. Local jurisdictions that have entered into agreement with the Department may issue installation permits and conduct inspections.
- E. A permit fee shall be charged either by the Department or the local jurisdiction participating in the installation inspection program. The fee charged by the Department shall be the amount established by the Board under A.R.S. § 41-2144(A)(4). The fee charged by a local jurisdiction shall not exceed the amount established by the Board under A.R.S. § 41-2144(A)(4).
- F. Every permit except a special use permit expires six months from the date the permit is issued. The Department may extend the permit for good cause.
- G. A licensee or consumer shall obtain a certificate of occupancy from the Department before occupying a commercial factory-built building.
- H. The permit holder, owner, or contractor shall call for all required inspections.
- I. All work listed on the permit shall be accessible (opened) for inspections.
- J. Approved plans or the manufacturer's installation manual shall be available onsite.
- K. A special use permit for factory-built buildings used for events of 45 days or less shall be obtained from the Department. The permit expires 45 days from the date of purchase. The unit shall be removed from the site when the permit expires.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective October 20, 1981 (Supp. 81-5). Former Section R4-34-801 repealed, new Section R4-34-801 renumbered from R4-34-501 and amended effective July 3, 1991 (Supp. 91-1). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

R4-34-802. General Installation

- A. An installer or contractor shall affix and complete an Arizona Insignia of Approval to each manufactured home, mobile home, or single-family factory-built building at the tail-light end of each unit, approximately one foot up from the floor and one foot in from the road side. "Road side" means the right side of the unit when viewing the unit from the hitch. The installer or contractor shall affix the insignia before calling the Office for an inspection.
- B. An installer or contractor shall make a report by the 15th of each month regarding compliance with subsection (A).
- C. An installer or contractor shall check with local jurisdictions for frost line requirements governing permanent foundations or utilities.
- D. An installer or contractor shall install multi-sectional manufactured homes manufactured after June 30, 1977, according to the manufacturer's instructions for joining the sections, making utility cross-over connections, and providing center (marriage) line and perimeter supports if the instructions are consistent with this Chapter.

Historical Note

Adopted effective January 31, 1979 (Supp. 79-1). Amended subsections (A), (D), (F), and (L) effective October 20, 1981 (Supp. 81-5). Former Section R4-34-802 repealed, new Section R4-34-802 renumbered from R4-34-502 and amended effective July 3, 1991 (Supp. 91-1). Section repealed by final rulemaking at 6 A.A.R. 47, effective December 8, 1999; new Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4).

R4-34-803. Soil and Materials

- A. A licensee that contracts with a consumer for an installation shall perform or contract for any site preparation necessary to make the site compatible with the manufactured home, mobile home, or residential single-family factory-built building to be installed. The licensee may contract with a licensed installer or other qualified professional to assess site and soil compatibility or perform any necessary preparation work. The party actually performing the site compatibility assessment or work is primarily responsible for work related to site compatibility or preparation. The licensee that contracts with the consumer, if a different entity, is secondarily responsible.
- B. Soil Preparation
 1. Unless contrary to law, an installer or contractor shall:
 - a. Divert any surface water away from the dwelling, any accessory structures, and their support components;
 - b. Provide sufficient drainage to prevent standing water and soil saturation detrimental to structures;

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- c. Establish soil grades that slope away from the dwelling, any accessory structures, and their support components; and
 - d. Compact all fill and backfill within 6 feet of the perimeter of the unit to prevent displacement.
2. When determining soil compaction an installer or contractor shall:
- a. Assume a minimum bearing capacity of 1,000 psf; or
 - b. Test and prove a minimum bearing capacity of 1,000 psf to the onsite inspector; or
 - c. Adhere to the specifications of a registered engineer, provided onsite, to an inspector.
- C. Materials: An installer or contractor shall use materials that comply with applicable standards incorporated in R4-34-102.
- D. Footings: An installer or contractor shall:
1. Place each footing on a surface capable of distributing equalized transfer of applied loads;
 2. Calculate and use the minimum size of each footing, necessary to minimize settling of the unit accounting for local soil conditions;
 3. Use piers with a maximum square base of 11 1/2 inch installed on 12 inch by 12 inch footings to support mobile and manufactured homes manufactured before January 1, 1984;
 4. Use main frame blocking installed on footings with 144 square inches of surface placed 3 feet, 6 inches from center, or footings with 256 square inches of surface placed at 6 foot intervals to support manufactured homes manufactured on or after January 1, 1984;
 5. Use footing material with one of the following attributes:
 - a. Minimum 3/4-inch thick plywood or two layers of 5/8-inch thick plywood no less than 12 inches wide. The plywood shall be Grade CDX APA Rated Sheeting Exposure 1, PSI-treated for ground contact, conforming to International Building Code or International Residential Code, as applicable under R4-34-102(2)(a) or (b);
 - b. Minimum 2-inch nominal thickness wood no less than 12 inches wide, and treated for ground contact, conforming to the International Building Code or the International Residential Code, as applicable under R4-34-102(2)(a) or (b);
 - c. Minimum 3-inch thick precast concrete pad with either 256 or 144 square inches of ground surface. The concrete shall have a minimum of 28 days compressive strength of not less than 4000 pounds per square inch; or
 - d. Hard plastic pad with either 256 or 144 square inches of ground surface. The plastic pad shall withstand a minimum vertical concentrated load failure rating of 15,000 pounds when tested on very dense and coarse gravel soils. "Failure" means that a crack at least 4 inches in length has appeared anywhere on the pad or the pad's surface has curled or bowed.
 6. Stack plywood with face grain perpendicular and fasten the plywood with corrosion-resistant nails or 7/16-inch wide-crown staples or screws;
 7. Fasten wood products that are stacked with corrosion-resistant nails or 7/16-inch wide-crown staples or screws;
 8. Not use any 2-inch thick piece of wood with split penetration greater than 4 inches into the end of the piece and parallel to the edges of the piece;
 9. When precast concrete pads are stacked, use pads with equal sized surface sides;
 10. When concrete masonry unit (CMU) building blocks are used for supports, use only 256 square inch ground and 8 inch by 16 inch caps;
 11. Stack plastic pads only when the pad is provided with an interlocking system; and
 12. Stack no more than two equal sized concrete pads per support.
- E. Supports (piers): An installer or contractor shall:
1. Place supports or piers on footings that do not exceed the size of the footing;
 2. Ensure that supports or piers bear no greater load than 8,000 pounds;
 3. Ensure that supports or piers have a minimum vertical concentrated load failure rating of 15,000 pounds;
 4. Not use supports with a height in excess of 36 inches or less than 12 inches for more than 25% of the supports along the main beams of the chassis, including footing;
 5. For a below ground installation, ensure that the height of the bottom of the perimeter rim joist is a minimum of 6 inches above finished grade;
 6. Ensure that the height of the bottom of the floor joist is a minimum of 18 inches above soil base unless otherwise specified by the manufacturer in instructions consistent with this Chapter;
 7. Locate supports or piers under the main beams of the chassis at intervals no greater than 6 feet and no more than 2 feet from either end of each main beam. When intervals no greater than 6 feet are not feasible because of running gear, supports shall be located as close as possible to the running gear with the remainder of the supports spaced according to the 6 and 2 foot requirements;
 8. Stagger the flanges on top of supports or piers so that every other flange is on the opposite side of the beam; and
 9. Construct permanent support heights to the International Building Code or the International Residential Code as applicable under R4-34-102(2)(a) or (b).
- F. Wedges: An installer or contractor shall:
1. Use two wedges in alignment per support;
 2. Use wood wedges that are a minimum of 1 1/2 inches by 3 1/2 inches by 6 inches; and
 3. Drive wedges in tightly so that the height developed does not exceed 2 inches at the support; and
 4. Provide each I-Beam of the building with full bearing on the wedge; or
 5. Use listed or approved shimming material according to the manufacturer's wedge instructions; or
 6. Use material and methods designed by an Arizona professional engineer or architect and approved by the authority having jurisdiction.

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- G. Anchoring: An installer or contractor shall use an anchoring system that is certified by a registered, professional engineer.
- H. Snow/Wind Loads
 1. Under 24 CFR 3282.11 and 3280.305, the authority having jurisdiction may not require manufactured homes to be built or installed to a snow load greater than 20 pounds per square foot unless the jurisdiction has received approval from HUD.
 2. Manufactured homes may be manufactured and installed, at the owner's option, to withstand greater than a 20 pound snow load. An installer or contractor shall install these units according to the manufacturer's instructions for the foundation support system if the instructions are consistent with this Chapter.
- I. Permanent Foundation Systems
 1. An installer or contractor shall install factory-built buildings in compliance with R4-34-102(2).
 2. An installer or contractor shall install manufactured and mobile homes according to the manufacturer's permanent foundation requirements or sealed engineered plans if the requirements or plans are consistent with this Chapter.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

R4-34-804. Utilities

- A. Utility service facilities. An installer or contractor shall not enter into an agreement to connect units to utility service facilities that are not compatible with the units.
- B. Electric. An installer or contractor shall make all electric connections or installations according to the National Electric Code.
 1. An installer or contractor shall connect manufactured or mobile homes using a piece of flexible metal conduit no greater than 36 inches and no less than 18 inches long. The installer or contractor shall use liquidtight, flexible metal conduit when a manufactured home is set at ground level or in a wet location. The installer or contractor shall connect the flexible metal conduit at the location so that only the rigid conduit emerges from the ground and the conduit extends at least 6 inches above ground level.
 2. When service equipment is installed on a manufactured home, an installer or contractor shall install the grounding electrode in compliance with the National Electrical Code. The following items shall be installed according to the National Electrical Code:
 - a. Feeder size according to Table 310.15(B)(6),
 - b. Power supply cord according to 550.10, and
 - c. Conduit according to Chapter 9 (including Annex C).
- C. Sewer. An installer or contractor shall make sewer connections or installations in compliance with the International Plumbing Code.
- D. Water. An installer or contractor shall make water connections or installations in compliance with the International Plumbing Code.
- E. Gas. An installer or contractor shall make gas connections or installations in compliance with the International Fuel Gas Code.
 1. The installer or contractor shall perform a gas test with the gas appliance flex connectors capped and the valves in the open position. The installer or contractor shall pressurize the system at 6 inches of mercury (45 ounces of mercury) or 3 psi gauge for 15 minutes. The system passes if there is no drop in pressure during the test. Pressure shall be measured with a mercury manometer or slope gauge calibrated in increments not greater than 1/10th of a pound, or an equivalent device. The source of normal operating pressure shall be isolated before the pressure test.
 2. The flexible connector shall not be more than 6 feet long.
 3. Flex connectors are not required for permanent foundation systems.
- F. Mechanical. An installer or contractor shall make mechanical connections and installations in compliance with the International Mechanical Code and the International Energy Conservation Code.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

R4-34-805. Accessory Structures

- A. For the purpose of A.R.S. § 41-2142(1), the word "attached" means fastened to a manufactured or mobile home or residential single-family, factory-built building at the time of its installation and removable without degradation of the structural integrity of the unit.
- B. An installer or contractor shall install, assemble, or construct each accessory structure in compliance with applicable standards incorporated by reference in R4-34-102(3).
- C. An installer or contractor installing manufactured homes, mobile homes, or factory-built buildings shall provide an opening that permits access to the underfloor area. If the access is through the skirting, retaining wall, or perimeter foundation wall, the access opening shall measure at least 18 inches by 24 inches.
- D. The Department shall approve or reject plans as prescribed in R4-34-705.
- E. Above or Below Grade Skirting
 1. For all skirting, an installer or contractor shall:
 - a. Provide an 18 inch by 24 inch minimum access crawl hole,
 - b. Ventilate skirting according to the International Building Code or the International Residential Code, and
 - c. Install skirting according to this Chapter or the manufacturer's instructions if the instructions are consistent with this Chapter.

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2. For below grade skirting, an installer or contractor shall design and construct skirting as a retaining wall according to the International Building Code or the International Residential Code.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 464, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 286, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 18 A.A.R. 944, effective June 4, 2012 (Supp. 12-2).

ARTICLE 10. ADMINISTRATIVE PROCEDURES

R4-34-1001. Rehearing or Review

- A. A party may amend a petition for rehearing or review filed under A.R.S. § 41-2184 at any time before it is ruled upon by the Director. The opposing party may file a response within 15 days after the date the petition or amended petition is filed. The Director may require the filing of written briefs explaining the issues raised in the petition and provide for oral argument.
- B. The Director may affirm or modify the decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in A.R.S. § 41-2184(D). An order modifying the decision or granting a rehearing shall specify with particularity the grounds on which the modification or rehearing is granted, and any rehearing shall cover only those matters.
- C. When a petition for rehearing or review is based upon affidavits, they shall be served with the petition. An opposing party or the Attorney General may, within 10 days after service, serve opposing affidavits.
- D. Not later than 15 days after the date of the decision, the Director may grant a rehearing or review on the Director's own initiative for any reason for which the Director might have granted relief on the petition of a party. The Director may grant a petition for rehearing or review, timely served, for a reason not stated in the motion.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 145, effective December 8, 1999 (Supp. 99-4).

41-3953. Department powers and duties

A. The department is responsible for establishing policies, procedures and programs that the department is authorized to conduct to address the affordable housing issues confronting this state, including housing issues of low income families, moderate income families, housing affordability, special needs populations and decaying housing stock. Among other things, the department shall provide to qualified housing participants and political subdivisions of this state financial, advisory, consultative, planning, training and educational assistance for the development of safe, decent and affordable housing, including housing for low and moderate income households.

B. Under the direction of the director, the department shall:

1. Establish guidelines applicable to the programs and activities of the department for the construction and financing of affordable housing and housing for low and moderate income households in this state. These guidelines shall meet or exceed all applicable state or local building and health and safety code requirements and, if applicable, the national manufactured home construction and safety standards act of 1974 and title VI of the housing and community development act of 1974 (P.L. 93-383, as amended by P.L. 95-128, 96-153 and 96-339). Guidelines established pursuant to this paragraph do not apply to the department's activities prescribed in section 35-726, subsection E.

2. Accept and allocate any monies as from time to time may be appropriated by the legislature for the purposes set forth in this article.

3. Perform other duties necessary to administer this chapter.

4. Perform the duties prescribed in sections 35-726 and 35-728.

5. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with the agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.

6. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.

7. Provide information and advice on request of any local, state or federal agencies, private persons and business enterprises on matters within the scope of department activities.

8. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.

9. Make annual reports to the governor and the legislature on its activities, including the geographic location of its activities, its finances and the scope of its operations.

C. Under the direction of the director, the department may:

1. Assist in securing construction and mortgage financing from public and private sector sources.

2. Assist mortgage financing programs established by industrial development authorities and political subdivisions of this state.
 3. Assist in the acquisition and use of federal housing assistance programs pertinent to enhance the economic feasibility of a proposed residential development.
 4. Assist in the compliance of a proposed residential development with applicable federal, state and local codes and ordinances.
 5. Prepare and publish planning and development guidelines for the establishment and delivery of housing assistance programs.
 6. Contract with a federal agency to carry out financial work on the federal agency's behalf and accept payment for the work.
 7. Subcontract for the financial work prescribed in paragraph 6 of this subsection and make payments for that subcontracted work based on the expectation that the federal agency will pay for that work.
 8. Accept payment from a federal agency for work prescribed in paragraph 6 of this subsection and deposit those payments in the Arizona department of housing program fund established by section 41-3957.
 9. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.
 10. Contract for and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.
 11. Use any media of communication, publication and exhibition in the dissemination of information, advertising and publicity in any field of its purposes, objectives or duties.
 12. Adopt rules deemed necessary or desirable to govern its procedures and business.
 13. Contract with other agencies in furtherance of any department program.
 14. Use monies, facilities or services to provide contributions under federal or other programs that further the objectives and programs of the department.
 15. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for the conduct of programs that are consistent with the general purposes and objectives of this article and deposit these monies in the Arizona department of housing program fund established by section 41-3957.
 16. Establish and collect fees and receive reimbursement of costs in connection with any programs or duties performed by the department and deposit the fees and cost reimbursements in the Arizona department of housing program fund established by section 41-3957.
- D. For the purposes of this section, the department is exempt from chapter 23 of this title.

E. The department is the designated state public housing agency as defined in the United States housing act of 1937 (42 United States Code sections 1401 through 1440) for the purpose of accepting federal housing assistance monies and may participate in the housing assistance payments program. Federal monies may be secured for all areas of this state subject only to the limitations prescribed in subsection F of this section.

F. For areas of this state where an existing public housing authority has not been established pursuant to section 36-1404, subsection A, the department acting as a public housing agency may undertake all activities under the section 8 tenant-based rental housing assistance payment program, except that the department shall not undertake a section 8 tenant-based rental housing assistance payment program within the boundaries of a city, town or county unless authorized by resolution of the governing body of the city, town or county. If the department accepts monies for a section 8 tenant-based rental housing assistance payment program for areas of this state where an existing public housing authority has been established pursuant to section 36-1404, subsection A, the department shall only accept and secure federal monies to provide housing for the seriously mentally ill or other populations with disabilities. The department may accept and secure federal monies for undertaking all contract administrator activities authorized under a section 8 project-based rental housing assistance payment program in all areas of this state and this participation does not require the authorization of any local governing body.

G. The department shall not itself directly own, construct, operate or rehabilitate any housing units, except as may be necessary to protect the department's collateral or security interest arising out of any department programs.

H. Notwithstanding any other provision of this section, the department may obligate monies as loans or grants applicable to programs and activities of the department for the purpose of providing housing opportunities for low or moderate income households or for housing affordability or to prevent or combat decaying housing stock. Unless otherwise required by federal or state law, any loan repayments shall be deposited in the Arizona department of housing program fund established by section 41-3957.

I. For any construction project financed by the department pursuant to subsection C of this section, except for contract administration activities in connection with the project-based section 8 program, the department shall notify a city, town, county or tribal government that a project is planned for its jurisdiction and, before proceeding, shall seek comment from the governing body of the city, town, county or tribal government or an official authorized by the governing body of the city, town, county or tribal government. The department shall not interfere with or attempt to override the local jurisdiction's planning, zoning or land use regulations.

41-4001. Definitions

In this chapter, unless the context otherwise requires:

1. "Accessory structure" means the installation, assembly, connection or construction of any one-story habitable room, storage room, patio, porch, garage, carport, awning, skirting, retaining wall, evaporative cooler, refrigeration air conditioning system, solar system or wood decking attached to a new or used manufactured home, mobile home or residential single family factory-built building.

2. "Act" means the national manufactured home construction and safety standards act of 1974 and title VI of the housing and community development act of 1974 (P.L. 93-383, as amended by P.L. 95-128, 95-557, 96-153 and 96-339).

3. "Alteration" means the replacement, addition, modification or removal of any equipment or installation after the sale by a manufacturer to a dealer or distributor but prior to the sale by a dealer to a purchaser, which may affect compliance with the standards, construction, fire safety, occupancy, plumbing or heat-producing or electrical system. Alteration does not mean the repair or replacement of a component or appliance requiring plug-in to an electrical receptacle if the replaced item is of the same configuration and rating as the component or appliance being repaired or replaced. Alteration also does not mean the addition of an appliance requiring plug-in to an electrical receptacle if such appliance is not provided with the unit by the manufacturer and the rating of the appliance does not exceed the rating of the receptacle to which such appliance is connected.

4. "Board" means the board of manufactured housing.

5. "Broker" means any person who, on behalf of another, sells, exchanges, buys, offers or attempts to negotiate or acts as an agent for the sale or exchange of a used manufactured home or mobile home except as exempted in section 41-4028.

6. "Component" means any part, material or appliance that is built-in as an integral part of the unit during the manufacturing process.

7. "Consumer" means either a purchaser or seller of a unit regulated by this chapter who utilizes the services of a person licensed by the department.

8. "Consummation of sale" means that a purchaser has received all goods and services that the dealer or broker agreed to provide at the time the contract was entered into or the transfer of title. Consummation of sale does not include warranties.

9. "Dealer" means any person who sells, exchanges, buys, offers or attempts to negotiate or acts as an agent for the sale or exchange of factory-built buildings, subassemblies, manufactured homes or mobile homes except as exempted in section 41-4028. A lease or rental agreement by which the user acquired ownership of the unit with or without additional remuneration is considered a sale under this chapter.

10. "Defect" means any defect in the performance, construction, components or material of a unit that renders the unit or any part of the unit unfit for the ordinary use for which it was intended.

11. "Department" means the Arizona department of housing.

12. "Director" means the director of the department.

13. "Earnest monies" means all monies given by a purchaser or a financial institution to a dealer or broker before consummation of the sale.

14. "Factory-built building" means a residential or nonresidential building including a dwelling unit or habitable room thereof that is either wholly or in substantial part manufactured at an off-site location to be assembled on-site, except that it does not include a manufactured home, recreational vehicle or mobile home as defined in this section.

15. "HUD" means the United States department of housing and urban development.

16. "Imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury.
17. "Insignia of approval" means a numbered or serialized label or seal issued by the director as certification of compliance with this chapter.
18. "Installation" means:
- (a) Connecting new or used mobile homes, manufactured homes or factory-built buildings to on-site utility terminals or repairing these utility connections.
 - (b) Placing new or used mobile homes, manufactured homes, accessory structures or factory-built buildings on foundation systems or repairing these foundation systems.
 - (c) Providing ground anchoring for new or used mobile homes or manufactured homes or repairing the ground anchoring.
19. "Installer" means any person who engages in the business of performing installations of manufactured homes, mobile homes or residential single family factory-built buildings.
20. "Installer of accessory structures" means any person who engages in the business of installing accessory structures.
21. "Listing agreement" means a document that contains the name and address of the seller, a description of the unit to be listed and the terms, including the period of time that the agreement is in force, the price the seller is requesting for the unit, the commission to be paid to the licensee and the signatures of the sellers and the licensee who obtains the listing.
22. "Local enforcement agency" means a zoning or building department of a city, town or county or its agents.
23. "Manufactured home" means a structure built in accordance with the act.
24. "Manufacturer" means any person engaged in manufacturing, assembling or reconstructing any unit regulated by this chapter.
25. "Mobile home" means a structure built prior to June 15, 1976, on a permanent chassis, capable of being transported in one or more sections and designed to be used with or without a permanent foundation as a dwelling when connected to on-site utilities except recreational vehicles and factory-built buildings.
26. "Office" means the office of manufactured housing within the department.
27. "Purchaser" means a person purchasing a unit in good faith from a licensed dealer or broker for purposes other than resale.
28. "Qualifying party" means a person who is an owner, employee, corporate officer or partner of the licensed business and who has active and direct supervision of and responsibility for all operations of that licensed business.

29. "Reconstruction" means construction work performed for the purpose of restoration or modification of a unit by changing or adding structural components or electrical, plumbing or heat or air producing systems.

30. "Recreational vehicle" means a vehicular type unit that is:

(a) A portable camping trailer mounted on wheels and constructed with collapsible partial sidewalls that fold for towing by another vehicle and unfold for camping.

(b) A motor home designed to provide temporary living quarters for recreational, camping or travel use and built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle.

(c) A park trailer built on a single chassis, mounted on wheels and designed to be connected to utilities necessary for operation of installed fixtures and appliances and has a gross trailer area of not less than three hundred twenty square feet and not more than four hundred square feet when it is set up, except that it does not include fifth wheel trailers.

(d) A travel trailer mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of a size or weight that may or may not require special highway movement permits when towed by a motorized vehicle and has a trailer area of less than three hundred twenty square feet. This subdivision includes fifth wheel trailers. If a unit requires a size or weight permit, it shall be manufactured to the standards for park trailers in a 119.5 of the American national standards institute code.

(e) A portable truck camper constructed to provide temporary living quarters for recreational, travel or camping use and consisting of a roof, floor and sides designed to be loaded onto and unloaded from the bed of a pickup truck.

31. "Safety" means the performance of a unit in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such unit, or any unreasonable risk of death or injury to the user or to the public if such accidents occur.

32. "Salesperson" means any person who, for a salary, commission or compensation of any kind, is employed by or acts on behalf of any dealer or broker of manufactured homes, mobile homes or factory-built buildings to sell, exchange, buy, offer or attempt to negotiate or act as an agent for the sale or exchange of an interest in a manufactured home, mobile home or factory-built building.

33. "Seller" means a natural person who enters into a listing agreement with a licensed dealer or broker for the purpose of resale.

34. "Site development" means the development of an area for the installation of the unit's or units' locations, parking, surface drainage, driveways, on-site utility terminals and property lines at a proposed construction site or area.

35. "Statutory agent" means an adult person who has been a bona fide resident of this state for at least three years and has agreed to act as agent for a licensee.

36. "Subassembly" means a prefabricated wall, floor, ceiling, roof or similar combination of components.

37. "Title transfer" means a true copy of the application for title transfer that is stamped or validated by the appropriate government agency.

38. "Unit" means a manufactured home, mobile home, factory-built building, subassembly or accessory structures.

39. "Used unit" means any unit that is regulated by this chapter and that has been sold, bargained, exchanged or given away from a purchaser who first acquired the unit that was titled in the name of such purchaser.

40. "Workmanship" means a minimum standard of construction or installation reflecting a journeyman quality of the work of the various trades.

41-4002. Office of manufactured housing; purpose

The purpose of the office of manufactured housing within the department is to maintain standards of quality and safety for manufactured homes, factory-built buildings, mobile homes and accessory structures and installation of manufactured and mobile homes, factory-built buildings and accessory structures. The affairs of the office of manufactured housing shall be conducted consistently with minimum standards of the United States department of housing and urban development so as to be designated the "state inspector" for manufactured homes and related industries. The office shall implement all existing laws and regulations mandated by the federal government, its agencies and this state for such purposes.

41-4004. Powers and duties of the deputy director; work by unlicensed person; inspection agreement; permit

A. The deputy director under the authority and direction of the director shall administer the provisions of this article and the rules adopted by the board.

B. The deputy director shall:

1. Establish a state inspection and design approval bureau within the office.

2. Enter into reciprocity agreements and compacts with other states or private organizations that adopt and maintain standards of construction reasonably consistent with those adopted pursuant to this article on determining that such standards are being enforced. The deputy director may void such agreements on determining such standards are not being maintained.

3. Authorize affixment of insignia to indicate compliance with the construction and installation requirements of this article.

4. Enter and inspect or investigate premises at reasonable times, after presentation of credentials by the deputy director or personnel of the office or under contract with the office, where units regulated by this

article are manufactured, sold or installed, to determine if any person has violated this article or the rules adopted pursuant to this article.

5. Enter into agreements with local enforcement agencies to enforce the installation standards in their jurisdiction provided the deputy director is monitoring their performance to be consistent with the installation standards of the office.

6. If an inspection reveals that a mobile home entering this state for sale or installation is in violation of this chapter, order its use discontinued and the mobile home or any portion of the mobile home vacated. The order to vacate shall be served on the person occupying the mobile home and copies of the order shall be posted at or on each exit of the mobile home. The order to vacate shall include a reasonable period of time in which the violation can be corrected.

7. If an inspection of a new installation of any mobile home or manufactured home reveals that the natural gas or electrical connections of the installation do not conform to the installation standards promulgated pursuant to this article and the nonconformance constitutes an immediate danger to life and property, the inhabitants of the home shall be notified immediately and in their absence a notice citing the violations shall be posted in a conspicuous location. The deputy director may order that the public service corporation, municipal corporation or other entity or individual supplying the service to the unit discontinue such service. If the danger is not immediate, the deputy director shall allow at least twenty-four hours to correct the condition before ordering any discontinuation of service.

8. If construction, installation, rebuilding or any other work is performed in violation of this chapter or any rule adopted pursuant to this chapter, order the work stopped. The order to stop work shall be served on the person doing the work or on the person causing the work to be done. The person served with the order shall immediately cease the work until authorized by the office to continue.

9. Verify written complaints filed with the office by purchasers within one year after the date of purchase or installation of units. Complaints shall be accepted from consumers which allege violations by any dealer, broker, salesperson, installer or manufacturer of this chapter or the rules adopted pursuant to this chapter.

10. On verification of a complaint pursuant to paragraph 9 of this subsection, serve notice to the dealer, broker, salesperson, installer or manufacturer that such verified complaint shall be satisfied as specified by the office.

C. Any dealer, broker, salesperson, installer or manufacturer licensed by the office shall respond within thirty days to a notice served pursuant to subsection B, paragraph 10 of this section. Failure to respond is grounds for disciplinary action pursuant to section 41-4039.

D. If an inspection or an investigation reveals that any work that is required to be performed by a licensee was performed by an unlicensed person required to be licensed pursuant to this chapter, the deputy director, an employee or a person under contract with the office may cite the unlicensed person. The citation may be issued and served pursuant to section 13-3903. The action shall be filed in the justice court in the precinct where the unlicensed activity occurred.

E. The deputy director may enter into agreements with acceptable qualified building inspection personnel or inspection organizations for enforcement of inspection requirements provided the deputy director is monitoring their performance to be consistent with this article, rules adopted pursuant to this article and

the established procedures of the office. If the deputy director determines that the person's or organization's performance is not consistent with this article, rules adopted pursuant to this article and the established procedures of the office, the person or organization may not enforce the contract and the aggrieved person shall be entitled to a refund of the consideration paid under the agreement.

F. If a mobile or manufactured home or factory-built building is installed without first obtaining an installation permit, the deputy director shall send a written notice to the purchaser specifying that a permit is required. If a permit is not obtained within thirty days after receipt of the written notice, the department shall issue and serve by personal service or certified mail a citation on the purchaser. Service of the citation by certified mail is complete after forty-eight hours after the time of deposit in the mail. On failure of the purchaser to comply with the citation within twenty days after its receipt, the deputy director shall file an action in the justice court in the precinct where installation occurred for violation of this subsection.

41-4005. Submission of construction, reconstruction or alteration plans by manufacturers; approval; revocation

A. Prior to the construction of any new model of factory-built building or subassembly, each manufacturer who intends to manufacture for delivery or sell such unit in this state shall submit to the director for approval detailed plans of each model and shall have obtained such approval.

B. Prior to reconstruction of any factory-built building, including those for which the director has not approved plans before construction, the licensee shall submit to the director for approval detailed plans of the factory-built building that indicate conformance with this state's adopted codes as certified by an engineer who is registered pursuant to title 32, chapter 1.

C. Prior to installation of a factory-built building or accessory structure, each licensee who intends to accomplish the construction shall submit to the director for approval detailed plans for each project and shall obtain the director's approval.

D. The office or a third party inspector who is authorized by the deputy director to verify compliance with the approved plans shall inspect the factory-built building.

E. A plan approval may be immediately suspended by the written notice of the deputy director if the deputy director has reasonable cause to believe that the licensee is not complying with the plan as approved or that the licensee has used inferior materials or workmanship in construction. This notice shall be served by personal service to an in-state licensee and by certified mail to an out-of-state licensee. Service of process by certified mail is complete after forty-eight hours from the time of deposit in the mail.

41-4006. Preemption of local building codes; responsibility for maintenance of utility connections

A. No building code or local enforcement agency or its adopted building codes may require, as a condition of entry into or sale in any county or municipality, that any unit which has been certified pursuant to this article be subjected to any local enforcement inspection to determine compliance with any standard covering any aspect of the unit which is inspected pursuant to this article.

B. Except where a local enforcement agency participates in the office permit and insignia issuance program for the installation of manufactured homes, mobile homes, factory-built buildings and accessory

structures and inspection of such installations, no local enforcement agency shall subject any unit installed to any local inspections or charge a fee for any services provided pursuant to this article.

C. A local enforcement agency in any county or municipality shall recognize the minimum standards of the act as equal to any nationally accepted or locally adopted building code standard.

D. Nothing in subsection A, B or C of this section shall prevent the application of local codes and ordinances governing zoning requirements, fire zones, building setback, maximum area and fire separation requirements, site development and property line requirements and requirements for on-site utility terminals for factory-built buildings, manufactured homes and mobile homes.

E. Notwithstanding any other provision of this section, the owner of a manufactured home or mobile home located in a park subject to title 33, chapter 11 is responsible for the maintenance of utility connections from any outlets furnished by the landlord pursuant to section 33-1434 to the unit, except that the landlord is responsible for the maintenance of connections for any distance greater than twenty-five feet to the point at which the utility connections are the property of the providing utility company if the outlet is located outside the lot line of the owner's unit and is more than twenty-five feet from the unit. A local enforcement agency that determines that local code requirements are not being met or that maintenance or safety activities are needed for utility connections may not require anyone except the responsible party to perform or pay for such activities.

41-4007. Notification and correction of defects by manufacturer; notice to purchaser

A. Every manufacturer of units shall furnish notification of any defect in any unit produced by such manufacturer which he determines, in good faith, relates to a construction or safety standard adopted pursuant to this chapter or contains a defect which constitutes an imminent safety hazard to the purchaser of such unit, within sixty days after such manufacturer has discovered the defect. Every manufacturer of units shall maintain a record of the names and addresses of the purchaser of each unit for the purposes of this section. Such information shall be provided by the dealer or broker upon purchase of each unit and reported monthly to the manufacturer.

B. The notification required by subsection A shall contain a clear description of such defect or failure to comply with such construction or safety standards, an evaluation of the risk to the occupants' safety reasonably related to such defect and a statement of the measures needed to repair the defect. The notification shall also inform the owner whether the defect will be corrected at no cost to the purchaser of the unit or at the expense of the purchaser.

41-4008. Costs of complying with standards; reimbursement from relocation fund; definition

A. The costs of bringing a mobile home into compliance with the requirements of this article may be reimbursed to the owner from the mobile home relocation fund established by section 33-1476.02 if all of the following are true:

1. The mobile home is moved from one mobile home park in this state to another mobile home park in this state.

2. The household income of the owner of the mobile home is at or below one hundred per cent of the current federal poverty level guidelines as published annually by the United States department of health and human services.

3. The mobile home is not being relocated as the result of a judgment in a forcible detainer or special detainer action requiring the owner to vacate the mobile home park in which the mobile home is located.

B. The amount of the reimbursement pursuant to this section shall not exceed one thousand five hundred dollars for the costs related to any mobile home.

C. The fund shall have a claim for reimbursement of sums received under this section by an individual who fails to reside in the mobile home for six months following its relocation, unless the failure was due to the death or disability of a resident.

D. For the purposes of this section, "owner" means an individual whose primary residence has been the mobile home continuously for the six-month period preceding an application for reimbursement, or an individual who has purchased the mobile home and who intends to reside in the mobile home as the individual's primary residence after the relocation.

41-4009. Board of manufactured housing; members; meetings

A. There is established a board of manufactured housing. The board shall consist of nine members appointed by the governor pursuant to section 38-211. One member shall represent the manufacturers, one shall represent the installer industry, one shall represent manufactured home park owners, one shall represent financial institutions, one shall represent the manufacturers of residential factory-built buildings, one shall represent the dealers and brokers and three members of the public, at least one of whom has as his residence a mobile or manufactured home and is a resident of a mobile home park or manufactured home park, shall represent the consumers of this state. Each member shall be appointed for a term of three years. The governor may remove any member from the board for incompetency, improper conduct, disability or neglect of duty. Members are eligible to receive compensation pursuant to section 38-611 and are eligible for reimbursement for expenses incurred while attending meetings called by the board pursuant to title 38, chapter 4, article 2.

B. The board annually shall select from its membership a chairperson for the board.

C. The board shall meet on call of the chairperson or on the request of at least four members.

41-4010. Powers and duties of board

A. The board shall:

1. Adopt rules imposing minimum construction requirements for factory-built buildings, subassemblies and components thereof that are reasonably consistent with nationally recognized and accepted publications or generally accepted manufacturing practices pertinent to the construction and safety standards for such item to be manufactured. These standards shall include minimum requirements for the safety and welfare of the public.

2. Adopt rules imposing requirements for body and frame design and construction and installation of plumbing, heating and electrical systems for manufactured homes that are consistent with the rules and regulations for construction and safety standards adopted by the United States department of housing and urban development.

3. Adopt rules relating to plan approvals as to requirements for the design, construction, alteration, reconstruction and installation of units or accessory structures as deemed necessary by the board to carry out this chapter.
4. Establish a schedule of fees, payable by persons, licensees or owners of units regulated by this chapter, for inspections, licenses, permits, plan reviews, administrative functions and insignia so that the total annual income derived from such fees will not be less than ninety-five percent and not more than one hundred five percent of the anticipated expenditures for the operation of the office of manufactured housing.
5. Adopt rules relating to the inspection throughout the state by the director of the installation of manufactured homes, mobile homes, factory-built buildings and accessory structures included as part of a sales contract for a new or used mobile or manufactured home or part of an agreement to move a new or used mobile or manufactured home.
6. Establish and maintain licensing standards and bonding requirements for all manufacturers of manufactured homes, factory-built buildings and subassemblies regulated pursuant to this chapter.
7. Establish and maintain licensing standards and bonding requirements for all dealers and brokers of manufactured homes, mobile homes, factory-built buildings and subassemblies thereof who sell or arrange the sale of such products within this state.
8. Establish and maintain licensing standards and bonding requirements for all installers of manufactured homes, mobile homes and accessory structures and certified standards for all persons who repair these homes and structures under warranties and who are not employees of the manufacturer.
9. Establish and maintain licensing standards for all salespersons of manufactured homes, mobile homes and factory-built buildings. These standards shall not include educational requirements.
10. Adopt rules consistent with the United States department of housing and urban development procedural and enforcement regulations and enter into such contracts necessary to administer the federal manufactured home regulations.
11. Adopt rules imposing minimum fire and life safety requirements in the categories of fire detection equipment, flame spread for gas furnace and water heater compartments, egress windows, electrical system and gas system for mobile homes entering this state.
12. Adopt rules for inspections and permits for minimum fire and life safety requirements and establish fees for such inspections and permits for mobile homes entering this state.
13. Adopt such other rules as the board deems necessary for the director to carry out this chapter and, to the extent not authorized by other provisions of this section, adopt rules as necessary to interpret, clarify, administer or enforce this article and article 4 of this chapter.
14. Adopt rules relating to the installation of manufactured homes, mobile homes, factory-built buildings and accessory structures included as part of a sales contract for a new or used mobile or manufactured home or part of an agreement to move a new or used mobile or manufactured home. This paragraph does not apply to:

(a) Single wide factory-built buildings that are used for construction project office purposes and that are not used by the public.

(b) Storage buildings of less than one hundred sixty-eight square feet that are not used by the public.

(c) Equipment buildings that are not used by the public.

15. Adopt rules relating to acceptable workmanship standards.

16. Adopt rules relating to issuing permits to licensees, owners of units or other persons for the installation of manufactured homes, mobile homes, factory-built buildings and accessory structures.

17. Adopt rules including a requirement that a permit shall be obtained before the installation of a mobile or manufactured home.

18. Establish standards for the permanent foundation of a manufactured home, mobile home or factory-built building.

B. In adopting rules pursuant to subsection A, paragraph 3 of this section, the board shall consider for adoption any amendments to the codes and standards referred to in subsection A, paragraphs 1 and 2 of this section. If the board adopts the amendments to such codes and standards, the director shall notify the manufacturers licensed pursuant to article 4 of this chapter ninety or more days prior to the effective date of such amendments.

C. Chapter 6 of this title does not apply to the setting of fees under subsection A, paragraph 4 of this section.

D. Rules adopted pursuant to subsection A, paragraph 14 of this section shall be standard throughout this state and may be enforced by the local enforcement agencies on installation to ensure a standard of safety. The board may make an exception to the standard if, on petition by a local jurisdiction participating in the installation inspection program, local conditions justify the exemption or it is necessary to protect the health and safety of the public. On its own motion, the board may revise or repeal any exception.

41-4030. Trust and escrow requirements; rules; exemptions

A. Beginning July 1, 2012, each dealer or broker licensed pursuant to this article shall establish an independent escrow account with an independent financial institution or escrow agent authorized to handle such an account in this state as prescribed by title 6, chapter 7 or 8, for each transaction involving:

1. A new manufactured home.

2. A new factory-built building designed for use as a residential dwelling.

3. A manufactured home, mobile home or factory-built building designed for use as a residential dwelling that is previously owned and that has a purchase price of fifty thousand dollars or more.

B. For the purposes of subsection A of this section, a financial institution or escrow agent is independent if the individual or entity is not controlled by the licensee, a family member of the licensee or a business

affiliated with the licensee and the licensee, family member or business affiliate does not have a majority interest in the financial institution or escrow agent.

C. The owner of a mobile home park who also is or owns a dealership licensed pursuant to this article to sell new units may sell a new manufactured home or a new factory-built building designed for use as a residential dwelling as a licensee without complying with subsection A of this section if all of the following apply:

1. The home will be sited in a mobile home park that is owned by the park owner.

2. At the time of the sale, the park owner has on file at the office of manufactured housing the name and address of all mobile home parks owned by the park owner, the name, address and license number of the licensed dealership and documentation showing to the satisfaction of the office of manufactured housing that the park owner either holds the license, owns a majority interest in the license or is controlled by an entity that holds a controlling interest in the license.

3. At the time of the sale, the licensed dealership has posted with the office of manufactured housing a dealer bond in an amount of at least one hundred thousand dollars in a form satisfactory to the office of manufactured housing covering sales by parks sharing common control.

D. Each dealer or broker who is licensed pursuant to this article and who sells manufactured homes, mobile homes or factory-built buildings designed for use as residential dwellings or a manufactured home, mobile home or factory-built building designed for use as a residential dwelling that is previously owned and that has a purchase price of less than fifty thousand dollars shall maintain a trust account or an escrow account with a financial institution or escrow agent located in this state and shall deposit all earnest money received for the sale of manufactured homes, mobile homes or factory-built buildings designed for use as residential dwellings in such account. The department shall conduct an audit of each dealer's or broker's trust or escrow account, including any transactions with an independent escrow account, at least once every two years. Beginning July 1, 2012, a purchaser under this subsection may request that the dealer or broker establish an independent escrow account and if such a request is made in writing no later than the time the purchase contract is signed, and the seller consents, the dealer or broker shall comply with this subsection by complying with subsection A of this section. A licensee handling a transaction under this subsection shall disclose to the purchaser, in writing and before or at the time the purchaser signs the purchase contract, that the purchaser may request in writing the use of an independent escrow account, and that the transaction will otherwise be handled through a trust account controlled by the licensee.

E. All dealers or brokers shall notify the director in writing when the trust or escrow account has been established by indicating the name and number of the account and the name and location of the financial institution used.

F. The dealer or broker, in writing, shall authorize the depository to release any and all information relative to trust or escrow accounts to the director or the director's agent, employee or deputy.

G. The dealer's or broker's earnest money receipt book shall reflect all earnest monies received and shall be at the minimum in duplicate and consecutively numbered.

H. All earnest monies shall be deposited in the escrow account or trust fund account no later than the close of the second banking business day after receipt.

I. The terms or instructions for any escrow account opened under subsection A or D of this section are deemed to be and enforceable as part of the purchase contract. All parties to the purchase contract and the licensee shall sign the terms and instructions. If practicable, the escrow terms or instructions shall be included in the purchase contract or stated in an addendum to the purchase contract. The licensee shall provide a copy of the purchase contract to the escrow agent even if the escrow terms or instructions are contained in a separate document. The licensee shall promptly provide the escrow account information to all parties to the purchase contract once the account is opened.

J. At a minimum, the escrow terms or instructions shall contain:

1. Identification of the escrow agent with information containing at least the name, address and telephone number of the agent.
2. All conditions or requirements that affect or pertain to closing the escrow account and disbursement of the monies in the account.
3. Any conditions or requirements where monies are to be disbursed from the escrow account in advance of the account being closed.
4. Any conditions or requirements where additional monies or documents must be deposited with an escrow agent after the escrow account is opened.

K. A dealer or broker may deposit and maintain up to two hundred dollars in the trust account to offset service charges that may be assessed by the financial institutions.

L. Every deposit into a trust account shall be made with a deposit slip that identifies each transaction as follows:

1. The amount of deposit.
2. The names of all parties involved in the transaction. All receipts for monies deposited in escrow shall be made accountable by containing the same information.

M. A complete record shall be retained by the dealer's or broker's office of all earnest monies received. The record shall contain provisions for entering:

1. The amount received.
2. From whom the money was received.
3. The date of receipt.
4. The place of deposit.
5. The date of deposit.
6. The daily balance of the trust fund account deposit of each transaction.

7. When the transaction has been completed.

8. The date and payment for all goods and services the dealer has contracted to provide.

N. All earnest money deposited in the trust or escrow account shall be held in such account until one of the following is completed:

1. An application for title transfer has been made.

2. The transaction involved is consummated or terminated and a complete accounting is made.

O. On completion pursuant to subsection N of this section, the earnest money deposit shall be conveyed to the lending institution or the dealer, broker, purchaser, seller, manufacturer or lienholder, whichever is applicable.

P. The dealer or broker shall retain true copies of the purchase agreements, earnest money receipts, depository receipts, evidence of delivery documents and evidence of consummation of sale or termination of sale for a period of three years.

Q. The deposits referred to in this section shall not be used for any purpose other than the transaction for which they were provided.

R. Notwithstanding any other provision of this section and except that this subsection does not apply to an independent escrow account established pursuant to subsection A of this section, before an event listed under subsection N of this section is completed, a licensed dealer may release trust account earnest monies to pay for flooring or inventory for the unit that is the subject of the transaction for which the earnest monies were provided. Either a licensed dealer or broker may release trust account earnest monies to pay other lawfully imposed interim loan amounts and charges imposed by a financial institution or other bona fide lender on the unit that is the subject of the transaction for which the earnest monies were provided. The dealer or broker shall not make any payment out of trust account monies pursuant to this subsection unless done in compliance with all of the following:

1. The payment is made no more than ten business days before the completion date pursuant to subsection N of this section.

2. The payment is made directly to the financial institution or other bona fide lender.

3. The payment is recorded in the dealer's or broker's records under this section and documented by a receipt, a payment record or any other evidence from the financial institution or lender.

4. If the transaction is terminated, the dealer or broker replaces the amount of the payment in the trust account within three business days after receiving written notification of the termination.

This subsection does not affect any other rights or obligations between the purchaser and the licensed dealer or broker.

S. The board shall adopt separate rules for dealer trust and escrow accounts and broker trust and escrow accounts. At a minimum, these rules shall contain trust and escrow account requirements for the following:

1. Recordkeeping.
2. Administration.
3. Service fees or charges.
4. Deposits.
5. Advances or payments out of trust and escrow accounts.
6. Closing or termination of sales transactions.
7. Auditing or investigation of trust or escrow account complaints.

T. This section shall not apply to a real estate broker or salesperson licensed pursuant to section 32-2122 and pursuant to this article when the unit is sold in conjunction with real estate.

41-4038. Rehearing

A. Any party may apply for a rehearing by filing with the director a motion pursuant to chapter 6, article 10 of this title.

B. The filing of a motion for rehearing shall suspend the operation of the administrative law judge's action, except for an action which upholds a cease and desist order, and permits the licensee or the person who was issued a citation to continue to do business pending denial or granting of the petition. If the motion is granted, the administrative law judge's action is suspended pending the decision of the director upon the rehearing.

C. In the order granting or denying a rehearing, the director shall include a statement of the particular grounds and reasons for the director's action on the petition and shall promptly mail a copy of the order to the parties who have appeared in support of or in opposition to the petition for rehearing. If a rehearing is granted, the administrative law judge shall set the matter for further hearing on due notice to the parties. After submission of the matter upon rehearing, the administrative law judge shall render a decision in writing and give notice of the decision in the same manner as of a decision rendered upon an original hearing.

D. A rehearing may be granted for any of the following reasons materially affecting the moving party's rights:

1. Irregularity in the proceedings before the director, or any order or abuse of discretion which deprived the moving party of a fair hearing.
2. Misconduct by the director, the director's employees or the administrative law judge.

3. Accident or surprise that could not have been prevented by ordinary prudence.
4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing.
5. Excessive or insufficient penalties.
6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing.
7. That the decision is not justified by the evidence or is contrary to law.

E. If an order denying a rehearing or a decision given upon a rehearing results in immediate suspension or revocation of a license, then operation of such order or decision shall be suspended until ten days after service of notice of the suspension or revocation.

F. In a rehearing pursuant to this section, a corporation may be represented by a corporate officer or employee who is not a member of the state bar if:

1. The corporation has specifically authorized the officer or employee to represent it.
2. The representation is not the officer's or employee's primary duty to the corporation but is secondary or incidental to the officer's or employee's duties relating to the management or operation of the corporation.

41-4039. Grounds for disciplinary action

The director may, on the director's own motion, and shall, on the complaint in writing of any person, cause to be investigated by the office the acts of any manufacturer, dealer, broker, salesperson or installer licensed with the office and may temporarily suspend or permanently revoke any license issued under this article, impose an administrative penalty or place on probation any licensee, if the holder of the license, while a licensee, is guilty of or commits any of the following acts or omissions:

1. Failure in any material respect to comply with this article or article 3 of this chapter.
2. Violation of any rule that is adopted by the board and that pertains to the construction of any unit or of any rule that is adopted by the board and that is necessary to effectively carry out the intent of this article, article 3 of this chapter or the laws of the United States or of this state.
3. Misrepresentation of a material fact by the applicant in obtaining a license.
4. Aiding or abetting an unlicensed person or knowingly combining or conspiring with an unlicensed person to evade this article or article 3 of this chapter, or allowing one's license to be used by an unlicensed person or acting as an agent, partner or associate of an unlicensed person with intent to evade this article or article 3 of this chapter.
5. Conviction of a felony.
6. The doing of a wrongful or fraudulent act by a licensee that relates to this article or article 3 of this chapter, including, beginning July 1, 2012, failure to comply with section 41-4030, subsection A, or the doing of any

other wrongful or fraudulent act in conjunction with the sale, transfer or relocation of a mobile home in this state.

7. Departure from or disregard of any code or any rule adopted by the board.

8. Failure to disclose or subsequent discovery by the office of facts that, if known at the time of issuance of a license or the renewal of a license, would have been grounds to deny the issuance or renewal of a license.

9. Knowingly entering into a contract with a person not duly licensed in the required classification for work to be performed for which a license is required.

10. Acting in the capacity of a licensee under any license issued under this article in a name other than as set forth on the license.

11. Acting as a licensee while the license is under suspension or in any other invalid status.

12. Failure to respond relative to a verified complaint after notice of such complaint.

13. Violation of title 28, chapter 10 or rules adopted pursuant to title 28, chapter 10, except for the licensing requirements of sections 28-4334, 28-4335, 28-4361, 28-4362, 28-4364, 28-4401 and 28-4402.

14. False, misleading or deceptive sales practices by a licensee in the sale or offer of sale of any unit regulated by this article or article 3 of this chapter.

15. Failure to remit the consumer recovery fund fee pursuant to section 41-4042.

16. Acting as a salesperson while not employed by a dealer or broker.

17. As a salesperson, representing or attempting to represent a dealer or broker other than by whom the salesperson is employed.

18. Failure by a salesperson to promptly place all cash, checks and other items of value and any related documents received in connection with a sales transaction in the care of the employing dealer or broker.

19. Failure to provide all agreed on goods and services.

20. Failure to manufacture or install in a workmanlike manner all subassemblies, units and accessory structures that are suitable for their intended purpose.

21. Failure of the licensee to work only within the scope of the license held.

22. An action by a licensee, who is also a mobile home park owner, manager, agent or representative, that restricts a resident's or prospective resident's access to buyers, sellers or licensed dealers or brokers in connection with the sale of a home or the rental of a space, that the department finds constitutes a violation of section 33-1434, subsection B or section 33-1452, subsection F or that violates any law or regulation relating to fair housing or credit practices.

41-4048. Violation: classification: penalty

A. No person required to be licensed pursuant to this article may sell or offer to sell in this state any manufactured home, factory-built building or subassembly unless the proper state insignia or HUD label is affixed to such unit.

B. No person required to be licensed pursuant to this article may manufacture for delivery, sell or offer to sell in this state any manufactured home, factory-built building or subassembly unless the unit and its components, systems and appliances have been constructed and assembled in accordance with the standards and rules adopted pursuant to this chapter.

C. A person shall not occupy or otherwise use a mobile home that has been brought into this state or move a mobile home from one mobile home park in this state to another mobile home park in this state unless it meets the standards adopted pursuant to this chapter and displays the proper state insignia. A mobile home that is rehabilitated in accordance with rehabilitation rules adopted by the department and receives an insignia of approval shall be deemed by a county or municipality to be acceptable for relocation into an existing mobile home park. This subsection does not apply to a person bringing a mobile home into this state as a tourist.

D. A person shall not advertise or offer for sale a mobile home that has been brought into this state unless it meets the standards adopted pursuant to this chapter and displays the proper state insignia.

E. No person may remove or cause to be removed an insignia of approval or a notice of violation without prior authorization of the office.

F. A person shall not occupy or use a mobile home in violation of an order to vacate issued pursuant to section 41-4004, subsection B, paragraph 6.

G. Except as provided in subsections I and J of this section, a person who violates this chapter, or any such rule or standard, is guilty of a class 2 misdemeanor.

H. The director, after notice and a hearing pursuant to section 41-4031, subsection A, may deny the issuance of a license or revoke or suspend the license of, impose an administrative penalty on or place on probation any manufacturer, dealer, broker, salesperson or installer who has violated this chapter or any standards and rules adopted pursuant to this chapter.

I. Any manufacturer, dealer, broker, salesperson or installer who knowingly violates this chapter or the rules adopted pursuant to section 41-4010, subsection A, paragraph 1, 2, 9 or 10 or any person who knowingly provides false information to seek reimbursement of expenses under section 41-4008 is guilty of a class 1 misdemeanor. Each violation of this chapter shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required by this chapter, except that the maximum fine may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

J. An individual or a director, officer or agent of a corporation who knowingly violates this chapter or the rules adopted pursuant to this chapter in a manner which threatens the health or safety of any purchaser is guilty of a class 1 misdemeanor.

K. A manufacturer, dealer, salesperson or broker shall not knowingly sell a unit regulated by this chapter to an unlicensed person for the purpose of resale, nor shall a dealer offer for sale or sell a new unit manufactured by an unlicensed person.

L. In addition to any other obligations imposed by law or contract during the term of a listing agreement, a licensee who has agreed to act as an agent to offer a manufactured home for sale shall promptly submit all offers to purchase the listed unit from any source to the client. The offers shall be in writing and signed and dated by the party making the offer and the client on receipt. A copy of the executed document shall be maintained as part of the record of sales.

M. No licensee, owner or other persons may manufacture, alter, reconstruct or install units regulated by this chapter, unless it is accomplished in a workmanlike manner in accordance with the rules adopted pursuant to this chapter and is suitable for the intended purpose.

DEPARTMENT OF HEALTH SERVICES (F-17-0708)

Title 9, Chapter 25, Article 2, Medical Direction, ALS Base Hospital Certification; Article 5, Medical Direction Protocols for Emergency Medical Care Technicians



**GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT**

MEETING DATE: July 6, 2017

AGENDA ITEM: E-9

TO: Members of the Governor's Regulatory Review Council
FROM: Chris Kleminich, Staff Attorney
DATE : June 20, 2017
SUBJECT: DEPARTMENT OF HEALTH SERVICES (F-17-0708)
Title 9, Chapter 25, Article 2, Medical Direction, ALS Base Hospital
Certification; Article 5, Medical Direction Protocols for Emergency Medical Care
Technicians

This five-year-review report from the Arizona Department of Health Services (Department) covers seven rules in A.A.C. Title 9, Chapter 25, Article 2 that relate to requirements for emergency medical care technicians (EMCTs) and certification of advanced life support (ALS) base hospitals. The report also covers nine rules, four of which are tables, in A.A.C. Title 9, Chapter 25, Article 5 that relate to protocols for EMCTs.

All rules in both articles were significantly revised in a December 2013 exempt rulemaking. Article 5 has seen subsequent revisions, via the exempt rulemaking process, in 2014, 2016, and 2017.

Proposed Action

The Department indicates that it plans to revise the rules in Article 2 and submit a Notice of Final Rulemaking to the Council by July 2019.

Substantive or Procedural Concerns

None.

Analysis of the agency's report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. Has the agency certified that it is in compliance with A.R.S. § 41-1091?

Yes. The Department has certified its compliance with A.R.S. § 41-1091.

2. **Has the agency analyzed the rules' effectiveness in achieving their objectives?**

Yes. The Department indicates that the rules are generally effective, though Sections 201 and 202 can be improved by addressing issues raised in written criticisms.

3. **Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?**

Yes. The Department indicates that it has received written criticisms related to Sections 201 and 202. Summaries of the comments, along with the Department's responses, can be found on pages 10-12 of the report. The Department indicates that it plans to address concerns raised in the comments in its planned rulemaking.

4. **Has the agency analyzed whether the rules are authorized by statute?**

Yes. The Department cites to both general and specific authority for the rules. Of particular significance is A.R.S. § 36-136(F), which allows the Department to "make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health."

5. **Has the agency analyzed the rules' consistency with statutes and other rules?**

Yes. The Department indicates that the rules are consistent with state and federal statutes and rules.

6. **Has the agency analyzed the current enforcement status of the rules?**

Yes. The Department indicates that, apart from the issues raised in written criticisms of Sections 201 and 202, the rules have been enforced without difficulty.

7. **Has the agency analyzed whether the rules are clear, concise, and understandable?**

Yes. The rules are generally clear, concise, and understandable, though Sections 201, 206, and 207 contain punctuation errors.

8. **Stringency of the Rules:**

a. **Are the rules more stringent than corresponding federal law?**

No. The Department indicates that no federal laws correspond to the rules.

b. **If so, is there statutory authority to exceed the requirements of federal law?**

Not applicable.

9. **For rules adopted after July 29, 2010:**

a. **Do the rules require issuance of a regulatory permit, license or agency authorization?**

Yes. The rules require issuance of an agency authorization.

b. **If so, are the general permit requirements of A.R.S. § 41-1037 met or does an exception apply?**

Yes. In accordance with A.R.S. § 41-1037(A)(2), the Department indicates that A.R.S. § 36-2204 specifically provides for this type of authorization.

10. **Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?**

Yes. In 2012, the Department indicated that it planned to amend the rules by December 31, 2013. As noted above, the Department completed the proposed course of action.

Conclusion

As noted above, the Department intends to submit a Notice of Final Rulemaking for Council approval by July 2019. The report meets the requirements of A.R.S. § 41-1056 and R1-6-301, and this analyst recommends that the report be approved.



**GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M**

MEETING DATE: July 6, 2017

AGENDA ITEM: E-9

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : June 20, 2017

SUBJECT: DEPARTMENT OF HEALTH SERVICES (F-17-0708)
Title 9, Chapter 25, Article 2, Medical Direction, ALS Base Hospital
Certification; Article 5, Medical Direction Protocols for Emergency Medical Care
Technicians

I reviewed the five-year-review report's economic, small business, and consumer impact comparison for compliance with A.R.S. § 41-1056 and make the following comments.

1. Economic Impact Comparison

No economic, small business, and consumer impact statements (EIS) were available. Article 2 establishes requirements for medical direction of emergency medical care technicians (EMCTs) and certification of advanced life support (ALS) base hospitals. Article 5 contains protocols for EMCTs.

The Department believes that 2013 changes to the rules, while imposing minimal-to-moderate increase costs for EMS providers or ambulance services, provided significant benefits to other stakeholders, including ALS base hospitals or hospitals seeking certification as an ALS base hospital, without affecting the health or safety of patients. Subsequent changes in 2014, 2016, and 2017 have, in the Department's view, provided a significant benefit to EMS providers, ambulance services, EMCTs, and reduced the regulatory burden on regulated entities.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

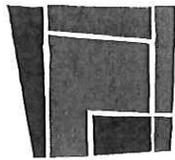
Except for the two rules that are the subject of the written criticisms, the Department believes that the rules impose the least burden and costs to regulated persons necessary to achieve the underlying regulatory objective.

3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?

No analysis was submitted to the Department by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states.

4. Conclusion

Staff finds that the report complies with A.R.S. § 41-1056 and recommends approval.



ARIZONA DEPARTMENT
OF HEALTH SERVICES

May 19, 2017

Nicole O. Colyer, Chairperson
Governor's Regulatory Review Council
Arizona Department of Administration
100 N. 15th Avenue, Suite 402
Phoenix, AZ 85007

RE: Report for A.A.C. Title 9, Chapter 25, Articles 2 and 5 of Emergency Medical Services

Dear Ms. Colyer:

According to the five-year-review report schedule of the Governor's Regulatory Review Council (Council), a report for A.A.C. Title 9, Chapter 25 is due to the Council no later than June 30, 2017. The Arizona Department of Health Services (Department) has reviewed 9 A.A.C. 25, Articles 2 and 5, and is enclosing a report to the Council for these rules.

The Department believes that this report complies with the requirements of A.R.S. § 41-1056. A five-year-review summary, information that is identical for all the rules, information for individual rules, the rules reviewed, the general and specific authority, and comments on the rules are included in the package. As described in the report, the Department believes the rules in 9 A.A.C. 25, Article 5 do not require changes at this time, but the Department plans to amend the rules in 9 A.A.C. 25, Article 2 by July 1, 2019.

The Department certifies that it is in compliance with A.R.S. § 41-1091.

If you need any further information, please contact me at (602) 542-1020.

Sincerely,

A handwritten signature in black ink, appearing to read 'RL' followed by a stylized flourish.

Robert Lane
Director's Designee

RL:rms
Enclosures

Douglas A. Ducey | Governor Cara M. Christ, MD, MS | Director



ARIZONA DEPARTMENT OF HEALTH SERVICES

FIVE-YEAR-REVIEW REPORT

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES

EMERGENCY MEDICAL SERVICES

ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL

CERTIFICATION

ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY

MEDICAL CARE TECHNICIANS

May 2017

FIVE-YEAR-REVIEW REPORT
TITLE 9. HEALTH SERVICES
CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES
ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION
ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL
CARE TECHNICIANS

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FIVE-YEAR-REVIEW REPORT
TITLE 9. HEALTH SERVICES
CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES
ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION
ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL
CARE TECHNICIANS

FIVE-YEAR-REVIEW SUMMARY

Arizona Revised Statutes (A.R.S.) §§ 36-2202(A)(3) and (4) and 36-2209(A)(2) require the Arizona Department of Health Services (Department) to adopt standards and criteria pertaining to the quality of emergency care, rules necessary for the operation of emergency medical services, and rules for carrying out the purposes of A.R.S. Title 36, Chapter 21.1. The Department has implemented these statutes in Arizona Administrative Code (A.A.C.) Title 9, Chapter 25. The rules in Article 2 establish requirements for medical direction of emergency medical care technicians (EMCTs) and certification of advanced life support (ALS) base hospitals. The rules in Article 5 contain protocols for EMCTs. Both Article 2 and Article 5 were entirely revised in an exempt rulemaking effective December 2013, and Sections in Article 5 have been further revised by exempt rulemaking, authorized by ARS § 36-2205(B), in 2014, 2016, and 2017.

After an analysis of the rules in 9 A.A.C. 25, Articles 2 and 5, the Department has determined that all of the rules are consistent with state and federal statutes and rules; all are clear, concise, and understandable, despite some minor punctuation errors in three of the rules; and all but two of the rules are effective. No analysis of competitiveness for the rules has been received by the Department. Four written criticisms/ comments have been received about rules in Article 2, and no written criticism, except for formal requests for rulemaking, were received about the rules in Article 5. Except for the two rules that are the subject of the written criticisms, the Department believes that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to regulated persons necessary to achieve the underlying regulatory objective. Unless a substantive issue arises other than those described in this report, the Department plans to revise the rules in Article 2 to address the concerns raised in the written criticisms, as stated in the report, and to submit a Notice of Final Rulemaking to the Governor's Regulatory Review Council (Council) by July 1, 2019.

INFORMATION THAT IS IDENTICAL FOR ALL OF THE RULES

1. Authorization of the rule by existing statute

The general statutory authority for the rules in 9 A.A.C. 25, Articles 2 and 5 are A.R.S. §§ 36-136(A)(7), 36-136(F), 36-2202, and 36-2209(A)(2).

The specific statutory authority for the rules in 9 A.A.C. 25, Article 2 are A.R.S. §§ 36-2201, 36-2202, and 36-2204.

The specific statutory authority for the rules in 9 A.A.C. 25, Article 5 are A.R.S. §§ 36-2202, 36-2204, and 36-2205.

2. The purpose of the rule

The purpose of the rules in 9 A.A.C. 25, Article 2, is to establish requirements for medical direction of EMCTs and certification of ALS base hospitals.

The purpose of the rules in 9 A.A.C. 25, Article 5, is to establish protocols for EMCTs to follow.

3. Analysis of effectiveness in achieving the objective

Except for R9-25-201 and R9-25-202, the rules in 9 A.A.C. 25, Articles 2 and 5 are effective in achieving their respective objectives.

4. Analysis of consistency with state and federal statutes and rules

The rules in 9 A.A.C. 25, Articles 2 and 5 are consistent with state and federal statutes and rules,

5. Status of enforcement of the rule

Except as described in paragraph 3 for R9-25-201 and R9-25-202, the rules in 9 A.A.C. 25, Articles 2 and 5 are enforced without difficulty by the Department.

6. Analysis of clarity, conciseness, and understandability

The rules in 9 A.A.C. 25, Articles 2 and 5 are clear, concise, and understandable despite some minor punctuation errors in R9-25-201, R9-25-206, and R9-25-207.

7. Summary of the written criticisms of the rule received within the last five years

Except for R9-25-201 and R9-25-202, the Department has not received any written criticisms of the rules in the past five years.

8. Economic, small business, and consumer impact comparison

The rules in 9 A.A.C. 25, Articles 2 and 5 were completely revised by exempt rulemaking, to comply with Laws 2012, Ch. 94, and published in the *Arizona Administrative Register* (A.A.R.) at 19 A.A.R. 4032, effective December 1, 2013. Tables 5.1 and 5.2 were further amended in 2014, 2016, and 2017, based on changes recommended by the Emergency Medical Services Council and the Medical Direction Commission, established by A.R.S. §§ 36-2203 and 36-2203.01, respectively; and R9-25-504 was amended in 2014 based on formal requests for rulemaking by stakeholders. In this

economic, small business, and consumer impact comparison, annual costs/revenues changes are designated as minimal when more than \$0 and \$1,000 or less, moderate when between \$1,000 and \$10,000, and substantial when \$10,000 or greater in additional costs or revenues. A cost is listed as significant when meaningful or important, but not readily subject to quantification.

As part of the 2013 rulemaking, Article 2 was changed to use the new nomenclature for classifications of EMCTs and to reorganize and consolidate requirements, reducing the number of Sections from 11 to seven. All requirements for an administrative medical director were included in R9-25-201, requirements for on-line medical direction were included in R9-25-202, and the requirements were clarified. The new rules also clarified certification and inspection requirements for ALS base hospitals, that an ALS base hospital must have the capability of providing both administrative medical direction and on-line medical direction, that an ALS base hospital must notify the Department if the administrative medical director specified in the ALS base hospital's application changes, and that an emergency medical services provider (EMS provider) or ambulance service is responsible for ensuring that an EMCT receives administrative medical direction according to the Chapter. Another method by which a physician could qualify to be an administrative medical director or provide on-line medical direction was included, as were mechanisms by which an EMS provider or ambulance provider could provide a qualified administrative medical director. The new rules also provided an alternate method for documenting the qualifications of an administrative medical director or a physician providing on-line medical direction and clarified that an EMS provider or ambulance service that provides only BLS is not required to have an administrative medical director. In addition, the new rules allowed a special hospital providing surgical and emergency services only to children to become an ALS base hospital providing administrative medical direction or on-line medical direction only for patients who are children, and an EMS provider or ambulance service to use an ALS base hospital that is a special hospital for administrative medical direction or on-line medical direction for patients who are children. The new rules removed requirements for notifying the Department upon learning that an EMCT has any of several specific criminal convictions or has had revoked/suspended certification/registration; that an administrative medical director or a physician providing on-line medical direction act only on behalf of specified entities; that an administrative medical director and anyone delegated authority for administrative medical direction functions must review and document the review of EMS statutes and rules; and that on-line medical direction be consistent with medical recordkeeping, medical reporting, and prehospital incident history report requirements approved by the EMCT's administrative medical director. Also removed in the new rules were requirements that restate what is in statute; a requirement to conspicuously post an ALS base hospital certificate and return a

certificate upon decertification; specific requirements for assisting a patient in self-administration of medication; duplicative requirements related to obtaining, providing access to, and monitoring an EMCT's use of agents by referring to R9-25-202 and specifying exceptions from these requirements; and references to requirements for ALS base hospital administrative medical directors, separate from the general requirements for administrative medical directors. The Department believes that these changes provided at least minimal and in some cases a substantial benefit to EMS providers, ambulance services, EMCTs, and ALS base hospitals or hospitals that might become ALS base hospitals in the future, without affecting the health or safety of a patient..

The new rules in Article 2 added a requirement for a protocol related to the communication of information during transfer of care, as a clarification of requirements for completing and processing prehospital incident history reports. The new rules also clarified chain of custody; mechanisms to control access to agents; and notification of depletion, adulteration, or loss of controlled substances. While these changes may have caused a minimal-to-moderate increase in costs to an EMS provider or ambulance service that were not already implementing these requirements as standard practice, the Department believes that they provided a significant benefit to hospitals receiving the patients brought to the hospitals, the patients and their families, and the general public. Changes to the application for certification as an ALS base hospital included the clarification that the application is in a Department-provided format, the addition of an e-mail address to the application, allowing for a designee of a hospital's chief administrative officer to be the liaison with the Department, allowing a special hospital meeting specific requirements to be eligible for certification as an ALS base hospital, and requiring the name of each emergency medical services provider or ambulance service with which the facility has a contract to provide medical direction, rather than requiring a copy of the contract. The new rules also clarified that the notification of a name change of an ALS base hospital is provided in a Department-provided format and includes the current name and certificate number, as well as documentation to distinguish a name change from a change in ownership. The new rules removed the Department's approval or denial of a name change. The Department believes that these changes imposed at most a minimal increased cost and provided a significant benefit to ALS base hospitals or hospitals seeking certification as an ALS base hospital, without affecting the health or safety of a patient.

Article 5 was also extensively changed as part of the 2013 rulemaking. Besides changing to the new nomenclature for classifications of EMCTs, the rules in Article 5 were reorganized and requirements consolidated, reducing the number of Sections from 13 to five, removing definitions now in A.R.S. § 36-2201 or R9-25-101, repealing two Exhibits, adding four Tables, and repealing one Table. The new rules clarified that an administrative medical director authorizes an EMCT to

perform a medical treatment, procedure, or technique or administer a medication; that documentation of training and of competency must be maintained; and that a health care institution to which an EMCT plans to transport a patient needs to be willing to accept the patient before the patient is transported. Also clarified were the requirement for assessment of an EMCT's competency by reference to relevant policies and procedures in Article 2; requirements related to administration of an immunizing agent to be consistent with requirements for pharmacist administration of immunizing agents in A.A.C. R4-23-411; requirements for infusion pumps; the agents that are required in the drug box used by EMCTs when providing EMS; and the agents that may be administered or monitored during an interfacility transport, which were moved from Table 1 into Table 5.4. The Department believes that these changes imposed at most a minimal increased cost to EMS providers, ambulance services, EMCTs and provided a significant benefit to EMS providers, ambulance services, EMCTs, patients, and the general public.

In the new rules in Article 5, requirements related to administration of a tuberculin skin test were removed, as were requirements that duplicated requirements in R9-25-502, Table 5.1, Table 5.2, or Table 5.3, such as those related to IV access by an EMT-B; to administration, monitoring, or assistance in self-administration of an agent; to endotracheal intubation by an EMT-B; to an EMT-B carrying and administering aspirin; to use of an esophageal tracheal double lumen device by an EMT-B; and for a supplemental skill training instructor. The requirement to provide a written list of alternate locations for transport was also removed, consistent with statutory changes, as was the requirement for notification of the Department before implementing the rule. The Department believes that these changes provided a significant benefit to EMS providers, ambulance services, and EMCTs, without affecting the health or safety of a patient. As part of the rulemaking, definitions used in the Article, a new Table of EMCT scope of practice, and a new Table for agents in a drug box specific to hazardous material incidents were added, and registered nurse practitioners were added to the list of health care providers to whom an EMCT may transfer care. Table 5.2 contained updated eligibility for authorization related to new EMCT classifications. In R9-25-504, the use of the term "emergency medical patient" was replaced with a description of the type of patient for whom the requirements in the rule are applicable to avoid confusion/conflict with the definition in A.R.S. § 41-1831, which is also used by the regulated community. The Department believes that these changes imposed at most a minimal increased cost to EMS providers, ambulance services, EMCTs and provided a significant benefit to EMS providers, ambulance services, EMCTs, patients, and the general public.

In the 2014 rulemaking for Article 5, Table 5.1, Table 5.2 and R9-25-504 were revised. "Assisting patient with his/her own prescribed medications (hydrocortisone sodium succinate)" was

added to Table 5.1, and several optional agents were added to Table 5.2. The rule in R9-25-504 was changed to allow an EMCT transporting a patient to transfer care of the patient to a designee of specified health care providers, rather than just to the specified health care provider. The Department believes that these changes provided a significant benefit to EMS providers, ambulance services, EMCTs, and the specific health care providers, without affecting the health or safety of a patient. In the 2016 rulemaking, requirements related to the administration of naloxone were added to the rules, to comply with Laws 2015, Ch. 313, § 4. The Department believes that these changes provided a significant benefit to EMS providers, ambulance services, EMCTs, patients who may have experienced an overdose of a narcotic and their families, and the general public. In the 2017 rulemaking, the rules were changed to reduce the number of required atropine syringes from three to one, the number of required adult and pediatric epinephrine auto-injectors from two to one each, and the amount of required glucagon from 2 mg to 1 mg; clarify the meaning of “Nitro” and ASA” in Table 5.1 and the concentrations of epinephrine HCl in Table 5.2; add the option for carrying and administering 2% lidocaine for AEMTs, EMT-I(99)s, and Paramedics; and make thiamine an optional agent. The Department believes that these changes provided a significant benefit to EMS providers, ambulance services, EMCTs, and reduced the regulatory burden on regulated entities.

9. Summary of business competitiveness analyses of the rules

The Department did not receive a business competitiveness analysis of the rules in the last five years.

10. Status of the completion of action indicated in the previous five-year-review report

In the 2012 Five-Year-Review Report, the Department stated that the Department planned to amend the rules in 9 A.A.C. 25 to comply with statutory changes made in Laws 2012, Ch. 94 and to file a Notice of Exempt Rulemaking by December 31, 2013. The rules in Articles 2 and 5 were revised as part of that rulemaking; therefore, the Department complied with this plan.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Except for R9-25-201 and R9-25-202, the Department has determined that the rules in 9 A.A.C. 25, Articles 2 and 5 impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective, despite some minor punctuation errors.

12. Analysis of stringency compared to federal laws

Federal laws do not apply to the rules in 9 A.A.C. 25, Articles 2 and 5.

13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with section 41-1037

The rules require the issuance of a specific agency authorization, which is authorized by A.R.S. § 36-2204(5) and (6), so a general permit is not applicable.

14. Proposed course of action

The Department does not plan to conduct a rulemaking for Article 5, except for the regular updates to the protocols. Unless a substantive issue arises other than those described in this report, the Department plans to revise the rules in Article 2 to address the concerns raised in the written criticisms, as stated in the report, and others that may be raised during the rulemaking and to submit a Notice of Final Rulemaking to the Council by July 1, 2019.

INFORMATION FOR INDIVIDUAL RULES

ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION

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

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2201.01 and 36-2205 as additional specific authority.

2. Objective

The objectives of the rule are to establish:

- a. Requirements for EMS providers and ambulance services related to administrative medical direction;
- b. General requirements for administrative medical directors;
- c. Requirements for protocols, policies and procedures, recordkeeping, and reporting related an EMCT's scope of practice; and
- d. To whom an administrative medical director may delegate responsibilities.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objectives but could be improved by addressing the issues raised in the written criticisms as described in paragraph 7. The effectiveness of the rule could also be improved if subsection (E)(2)(d) were more specific about the time-frame for sharing information with an emergency receiving facility.

7. Summary of the written criticisms of the rule received within the last five years

The Department has received four written criticisms/comments of the rule in the past five years.

Comment: Two comments were received expressing concern that some physicians licensed under A.R.S. Title 32, Chapter 17 do not meet the requirements in subsection (A)(1)(a), (b), or (c), being certified by a different Board than those listed and have to qualify to be an administrative medical director by taking the three courses listed in subsection (A)(1)(d). One commenter thought that these physicians should be grandfathered in as qualified without taking the courses.

Comment: As part of a comment about on-line medical direction described under R9-25-202, a comment was received describing the two pathways by which a physician could become certified in pediatric emergency medicine and expressing the belief that both should satisfy the certification requirements in subsections (A)(1)(a) through (c).

Response: The Department agrees that a physician, Board-certified in emergency medicine by a different Board than one listed or trained through a different pathway, may be qualified to be an

administrative medical director without having to take the three courses listed in subsection (A)(1)(d). The Department plans to address these concerns during the next rulemaking.

Comment: A comment was received stating that subsection (A)(1)(d) requires “current certification” in the courses listed as subsections (A)(1)(d)(i) through (iii), and asking how the Department interprets “when a card is expired for ACLS/CPR” when the card states “recommended renewal date.”

Response: The Department interprets the “recommended renewal date” to be the expiration date for the card, but plans to clarify the Department’s expectations during the next rulemaking.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

The Department has determined that the rule does not impose the least burden and costs to persons regulated by the rule, because of the items identified in paragraphs 3 and 7.

R9-25-202. On-line Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2201.01 and 36-2205 as additional specific authority.

2. Objective

The objectives of the rule are to establish:

- a. Who may provide on-line medical direction to an EMCT, and
- b. Requirements for providing on-line medical direction, recordkeeping, and equipment and staffing related to the provision of on-line medical direction.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objectives but could be improved by addressing the issues raised in the written criticisms as described in paragraph 7.

7. Summary of the written criticisms of the rule received within the last five years

The Department has received four written criticisms of the rule in the past five years.

Comment: Two comments were received expressing concern that some physicians licensed under A.R.S. Title 32, Chapter 17 do not meet the requirements in subsection (A)(1)(a), (b), or (c), being certified by a different Board than those listed and have to qualify to provide on-line medical direction by taking the three courses listed in R9-25-201(A)(1)(d). The commenter thought that the physicians should be grandfathered in as qualified without taking the courses.

Comment: A comment was received expressing concern about two issues. The first issue related to the two pathways by which a physician could become certified in pediatric emergency medicine and expressed the belief that both should satisfy the certification requirements in subsections (A)(1)(a) through (c). The second concern expressed was that physicians providing on-line medical direction only for patients who are children should only be required to take pediatric advanced life support (PALS), not both PALS and advanced cardiac life support “because they will not be providing medical command for adults.”

Response: The Department agrees that a physician, Board-certified in emergency medicine by a different Board than one listed or trained through a different pathway, may be qualified to provide on-line medical direction without having to take the three courses listed in R9-25-201(A)(1)(d). The Department plans to address these concerns during the next rulemaking.

Response: The Department understands that PALS training is specific to children eight years of age and under. Since a child receiving emergency medical services may be older than eight, the Department believes that both PALS and advanced cardiac life support should be required of a physician who does not meet the criteria in subsection (A)(1)(a), (b) or (c) and provides on-line medical direction for children.

Comment: A comment was received stating that subsection (A)(1)(d) requires “current certification” in the courses listed as R9-25-201(A)(1)(d)(i) through (iii), and asking how the Department interprets “when a card is expired for ACLS/CPR” when the card states “recommended renewal date.”

Response: The Department interprets the “recommended renewal date” to be the expiration date for the card, but plans to clarify the Department’s expectations during the next rulemaking.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

The Department has determined that the rule does not impose the least burden and costs to persons regulated by the rule, because of the items identified in paragraphs 3 and 7.

R9-25-203. ALS Base Hospital General Requirements (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5), (6), and (7))

2. Objective

The objective of the rule is to establish general requirements for an ALS base hospital.

R9-25-204. Application Requirements for ALS Base Hospital Certification (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5))

2. Objective

The objective of the rule is to establish application requirements for ALS base hospital certification.

R9-25-205. Changes Affecting an ALS Base Hospital Certificate (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5) and (6))

2. Objective

The objective of the rule is to establish requirements related to a change in the name, address, or ownership of an ALS base hospital.

R9-25-206. ALS Base Hospital Authority and Responsibilities (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5) and (6), 36-2208(A), and 36-2209(A)(2))

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2208(A) and 36-2209(A)(2) as additional specific authority.

2. Objective

The objectives of the rule are to establish requirements for an ALS base hospital:

- a. To provide administrative medical direction and on-line medical direction,
- b. To notify the Department of a change in the administrative medical director or the ALS base hospitals qualifications for certification,
- c. When acting as a training program, and
- d. When providing agents to an EMS provider or ambulance service.

R9-25-207. ALS Base Hospital Enforcement Actions (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(7))

2. Objective

The objectives of the rule are to establish:

- a. The circumstances under which the Department may take action against an ALS base hospital certificate holder, and
- b. The actions the Department may take against an ALS base hospital certificate holder.

**ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL CARE
TECHNICIANS**

R9-25-501. Definitions

2. Objective

The objective of the rule is to provide definitions of terms used in the Article.

R9-25-502. Scope of Practice for EMCTs

2. Objective

The objective of the rule is to establish the scope of practice for EMCTs, including:

- a. What actions an EMCT is allowed to perform, and
- b. The responsibilities of an administrative medical director when authorizing an EMCT to perform an action and for monitoring competency.

Table 5.1. Arizona Scope of Practice Skills

2. Objective

The objective of the rule is to establish the skills that may be performed by each classification of EMCT.

Table 5.2. Eligibility for Authorization to Administer, Monitor, and Assist in Patient Self-administration of Agents by EMCT Classification; Administration Requirements; and Minimum Supply Requirements for Agents

2. Objective

The objectives of the rule are to establish, for each classification of EMCT:

- a. The agents that an EMCT is eligible to administer, monitor, or assist in patient self-administration;
- b. The minimum amounts of agents that an EMCT is required to have available for administration;
- c. If applicable, the route of administration of an agent or other administration requirement; and
- d. The agents that are optional and, if accessible to an EMCT, the minimum amounts of the agents.

Table 5.3. Agents Eligible for Authorization for Administration During a Hazardous Material Incident

2. Objective

The objective of the rule is to establish the agents that a Paramedic may administer during a hazardous material incident.

Table 5.4. Eligibility for Authorization to Administer and Monitor Transport Agents During Interfacility Transports, by EMCT Classification; Administration Requirements

2. Objective

The objective of the rule is to establish, for each classification of EMCT:

- a. The agents that an EMCT is eligible to administer or monitor during an interfacility transport, and
- b. If applicable, the route of administration of the agent or other administration requirement.

R9-25-503. Testing of Medical Treatments, Procedures, Medications, and Techniques that May Be Administered or Performed by an EMCT

2. Objective

The objective of the rule is to establish requirements related to the Department's authorizing, as allowed by A.R.S. § 36-2205, the testing and evaluation of a medical treatment, procedure, technique, practice, medication, or piece of equipment for possible use by an EMCT or an EMS provider.

R9-25-504. Protocol for Selection of a Health Care Institution for Transport

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2232(F) as additional specific authority.

2. Objective

The objectives of the rule are to establish:

- a. Requirements for transport of a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number; and
- b. If the patient is not being transported to an emergency receiving facility, requirements for ensuring the willingness of the health care institution to accept the patient, transferring care of the patient, and recordkeeping.

R9-25-505. Protocol for an EMT-I(99) or a Paramedic to Become Eligible to Administer an Immunizing Agent

2. Objective

The objectives of the rule are to establish:

- a. The process by which an EMT-I(99) or Paramedic may be authorized to administer an immunizing agent, and
- b. The requirements for an EMT-I(99) or Paramedic administering an immunizing agent.

March 2, 2016

Arizona Department of Health Services
Bureau of EMS and Trauma Systems
150 N. 18th Avenue
Phoenix, AZ 85007

To Whom It May Concern:

Acknowledging the requirements for base station physicians within the Arizona Administrative Code in the attached addendum, Phoenix Children's Hospital (PCH) recognizes that all physicians practicing in the emergency department (ED) who may serve as base hospital physicians *have emergency medicine certification issued by a member board of the American Board of Medical Specialties*, or are eligible to have this certification at the time that the next board certification exam is offered, in 2017. For those board-eligible physicians who completed their training so recently as not to be able to sit for the last board certification examination in 2015, these physicians, as do all PCH ED physicians, *have current certification in Pediatric advanced life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association, as well as Advanced trauma life support recognized by the American College of Surgeons.* PCH considers that base hospital physicians at *an ALS base hospital that is a special hospital for on-line medical direction only for patients who are children* may not be required to meet the requirements in R9-25- 201(A)(1)(d)(i), namely advanced cardiac life support for adults, because they will not be providing medical command for adults.

The emergency medicine certification held by PCH ED physicians has been issued by either the American Board of Pediatrics or the American Board of Emergency Medicine. All physicians have completed residency training in addition to fellowship training in programs accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, which is more years of training than that required in R9-25-201(A)(1)(c).

The path to becoming certified in Pediatric Emergency Medicine may occur by one of two routes:

1. ABP (<http://www.abms.org/member-boards/contact-an-abms-member-board/american-board-of-pediatrics/>):
 - 3 years of residency training in pediatrics*, plus 3 years of fellowship training in pediatric emergency medicine*
 - **Pediatric Emergency Medicine**
 - A Pediatrician specializing in Pediatric Emergency Medicine has special qualifications to manage emergency treatments in acutely ill or injured infants and children.
2. ABEM (<http://www.abms.org/member-boards/contact-an-abms-member-board/american-board-of-emergency-medicine/>)
 - 3-4 years of residency training*, plus 2-3 years of fellowship training in pediatric emergency medicine*

- **Pediatric Emergency Medicine**

An Emergency Medicine physician who specializes in Pediatric Emergency Medicine has special qualifications to manage emergency treatments in acutely ill or injured infants and children.

*ACGME-accredited

PCH believes that both of these routes satisfy the certification requirement in R9-25-201(A)(1)(a) and (c).

Sincerely,

Toni K. Gross, MD, MPH
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University of Arizona College of Medicine-Phoenix
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ADDENDUM:

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

A. An emergency medical services provider or ambulance service shall:

1. Except as specified in subsection (B) or (C), designate a physician as administrative medical director who meets one of the following:

- a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
- b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
- c. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association;

or

d. Is an emergency medicine physician in an emergency department located in Arizona and has current certification in:

i. Advanced emergency cardiac life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association, in:

- (1) Airway management during respiratory arrest;
- (2) Recognition of tachycardia, bradycardia, pulseless ventricular tachycardia, ventricular fibrillation, pulseless electrical activity, and asystole;
- (3) Pharmacologic, mechanical, and electrical arrhythmia interventions; and
- (4) Immediate post-cardiac arrest care;

ii. Advanced trauma life support recognized by the American College of Surgeons; and

iii. Pediatric advanced life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association, in:

- (1) Pediatric rhythm interpretation;
- (2) Oral, tracheal, and nasal airway management;
- (3) Peripheral and central intravenous lines;
- (4) Intraosseous infusion;
- (5) Needle thoracostomy; and
- (6) Pharmacologic, mechanical, and electrical arrhythmia interventions;

R9-25-202. On-line Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))

A. An emergency medical services provider or ambulance service shall:

1. Ensure that a physician provides on-line medical direction to EMCTs on behalf of the emergency medical services provider or ambulance service only if the physician meets one of the following:

- a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
- b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
- c. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association;

or

- d. Is an emergency medicine physician in an emergency department located in Arizona and has current certification that meets the requirements in R9-25- 201(A)(1)(d)(i) through (iii);
 2. For each physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service, maintain for Department review either:
 - a. The name, e-mail address, telephone number, and qualifications of the physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service; or
 - b. If the emergency medical services provider or ambulance service provides on-line medical direction through an ALS base hospital or a centralized medical direction communications center, a copy of a written agreement with the ALS base hospital or centralized medical direction communications center documenting that the physician providing on-line medical direction is qualified under subsection (A)(1);
 3. Ensure that the on-line medical direction provided to an EMCT on behalf of the emergency medical services provider or ambulance service is consistent with:
 - a. The EMCT's scope of practice, as specified in Table 5.1; and
 - b. Communication protocols, triage protocols, treatment protocols, and protocols for prehospital incident history reports, specified in R9-25-201(E)(2); and
 4. Ensures that a physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service relays on-line medical direction only through one of the following individuals, under the supervision of the physician and consistent with the individual's scope of practice:
 - a. Another physician,
 - b. A physician assistant,
 - c. A registered nurse practitioner,
 - d. A registered nurse,
 - e. A Paramedic, or
 - f. An EMT-I(99).
- B. An emergency medical services provider or ambulance service may provide on-line medical direction through an ALS base hospital that is a special hospital, if the emergency medical services provider or ambulance service:
 1. Uses the ALS base hospital that is a special hospital for on-line medical direction only for patients who are children, and
 2. Has a written agreement with an ALS base hospital that meets the requirements in R9-25-203(B)(1) or a centralized medical direction communications center for the provision of on-line medical direction.

Ruthann Smejkal

From: Terry Mullins
Sent: Thursday, November 10, 2016 10:31 AM
To: Ruthann Smejkal
Subject: FW: Rules AZ

FYI

Terry Mullins, MBA, MPH
Chief, Bureau of EMS and Trauma System
150 N. 18th Avenue, Suite 540, Phoenix AZ 85007-3248
Direct 602-364-3149
Mobile 623-687-5279
Email terry.mullins@azdhs.gov
Health and Wellness for all Arizonans

From: Moroney, Tracy [<mailto:Tracy.Moroney@HonorHealth.com>]
Sent: Thursday, November 10, 2016 10:30 AM
To: Noreen Adlin
Cc: Maitem, Jonathan; Terry Mullins
Subject: RE: Rules AZ

Also interested in if you are going to add PALS cert to the list of things to have.

I noted that the CPR cards say "recommended renewal date"... how does state interpret when a card is expired for ACLS/CPR.

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HonorHealth

Ruthann Smejkal

From: Terry Mullins
Sent: Thursday, November 10, 2016 10:31 AM
To: Ruthann Smejkal
Subject: FW: Rules AZ ADmin code Article 2 Medical Direction

FYI

Terry Mullins, MBA, MPH
Chief, Bureau of EMS and Trauma System
150 N. 18th Avenue, Suite 540, Phoenix AZ 85007-3248
Direct 602-364-3149
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Health and Wellness for all Arizonans

From: Moroney, Tracy [<mailto:Tracy.Moroney@HonorHealth.com>]
Sent: Thursday, November 10, 2016 10:19 AM
To: Noreen Adlin
Cc: Kimberly Boehm; Maitem, Jonathan; Terry Mullins
Subject: Rules AZ ADmin code Article 2 Medical Direction

Morning Noreen:

Regarding the ruling that prohibits a group of emergency department board certified physicians from providing administrative and/or on line prehospital medical direction unless they can demonstrate current certification in ACLS, ATLS and PALS... the unintended consequence of the rule revision process.... Do you know if this has been rectified?

Tracy

Tracy Moroney RN, BSN, BCEN,BCFRN
Pre Hospital Coordinator
Deer Valley Medical Center
19829 N 27 Avenue
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Cell: 602 418 3842
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Ruthann Smejkal

From: Pete Wertheim <PWertheim@AZ-OSTEO.ORG>
Sent: Tuesday, December 22, 2015 10:06 AM
To: Terry Mullins
Cc: Noreen Adlin; Don Herrington; Colby Bower; Ruthann Smejkal
Subject: RE: Follow up - AZ EMS Physician Medical Director Rule

Thank you for the update Terry, and especially for all the work you and others are doing to resolve this issue. We will reach out to the physician and hopefully this will be acceptable to him. I think this sounds quite reasonable, but I'm not the expert either.

Let me know if anything new changes in the interim. Have a great day.

Pete Wertheim, Executive Director
Arizona Osteopathic Medical Association
5150 N.16th Street, A-122
Phoenix, AZ 85016
W: 602-266-6699 C: 602-515-3847
pwertheim@az-osteo.org



D.O.s – Treating Our Family and Yours

From: Terry Mullins [mailto:Terry.Mullins@azdhs.gov]
Sent: Tuesday, December 22, 2015 8:59 AM
To: Pete Wertheim <PWertheim@AZ-OSTEO.ORG>
Cc: Noreen Adlin <Noreen.Adlin@azdhs.gov>; Don Herrington <Don.Herrington@azdhs.gov>; Colby Bower <Colby.Bower@azdhs.gov>; Ruthann Smejkal <Ruthann.Smejkal@azdhs.gov>
Subject: RE: Follow up - AZ EMS Physician Medical Director Rule

Hello Pete - I hope that your trip was "maravillosa!"

We have identified a method to help those physicians who don't meet the new rule language. While we can't ignore the requirement for the three courses, we can allow for a 24-month period to obtain the certifications. My team will contact each of our base hospitals to make them aware of this change in timeframe.

In addition, this will be listed as a priority fix when we get authorization to open those rules up.

Best wishes for a Merry Christmas and Happy New Year.

T

Terry Mullins, Chief
Arizona Department of Health Services
Bureau of EMS and Trauma System
P: 602 364-3149, F: 602 364-3568

Department of Health Services – Emergency Medical Services

ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION

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

- A.** An emergency medical services provider or ambulance service shall:
1. Except as specified in subsection (B) or (C), designate a physician as administrative medical director who meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
 - c. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - d. Is an emergency medicine physician in an emergency department located in Arizona and has current certification in:
 - i. Advanced emergency cardiac life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association, in:
 - (1) Airway management during respiratory arrest;
 - (2) Recognition of tachycardia, bradycardia, pulseless ventricular tachycardia, ventricular fibrillation, pulseless electrical activity, and asystole;
 - (3) Pharmacologic, mechanical, and electrical arrhythmia interventions; and
 - (4) Immediate post-cardiac arrest care;
 - ii. Advanced trauma life support recognized by the American College of Surgeons; and
 - iii. Pediatric advanced life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association, in:
 - (1) Pediatric rhythm interpretation;
 - (2) Oral, tracheal, and nasal airway management;
 - (3) Peripheral and central intravenous lines;
 - (4) Intraosseous infusion;
 - (5) Needle thoracostomy; and
 - (6) Pharmacologic, mechanical, and electrical arrhythmia interventions;
 2. If the emergency medical services provider or ambulance service designates a physician as administrative director according to subsection (A)(1), notify the Department in writing:
 - a. Of the identity and qualifications of the designated physician within 10 days after designating the physician as administrative medical director; and
 - b. Within 10 days after learning that a physician designated as administrative director is no longer qualified to be an administrative director; and
 3. Maintain for Department review:
 - a. A copy of the policies, procedures, protocols, and documentation required in subsection (E); and
 - b. Either:
 - i. The name, e-mail address, telephone number, and qualifications of the physician providing administrative medical direction on behalf of the emergency medical services provider or ambulance service; or
 - ii. If the emergency medical services provider or ambulance service provides administrative medical direction through an ALS base hospital or a centralized medical direction communications center, a copy of a written agreement with the ALS base hospital or centralized medical direction communications center documenting that the administrative medical director is qualified under subsection (A)(1).
- B.** Except as provided in R9-25-502(A)(3), if an emergency medical services provider or ambulance service provides only BLS, the emergency medical services provider or ambulance service is not required to have an administrative medical director.
- C.** If an emergency medical services provider or ambulance service provides administrative medical direction through an ALS base hospital or a centralized medical direction communications center, the emergency medical services provider or ambulance service shall ensure that the ALS base hospital or centralized medical direction communications center designates a physician as administrative medical director who meets one of the requirements in subsections (A)(1)(a) through (d).
- D.** An emergency medical services provider or ambulance service may provide administrative medical direction through an ALS base hospital that is a special hospital, if the emergency medical services provider or ambulance service:
1. Uses the ALS base hospital that is a special hospital for administrative medical direction only for patients who are children, and
 2. Has a written agreement with an ALS base hospital that meets the requirements in R9-25-203(B)(1) or a centralized medical direction communications center for the provision of administrative medical direction.
- E.** An emergency medical services provider or an ambulance service shall ensure that:
1. An EMCT receives administrative medical direction as required by A.R.S. Title 36, Chapter 21.1 and this Chapter;
 2. Protocols are established, documented, and implemented by an administrative medical director, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that include:
 - a. A communication protocol for:
 - i. How an EMCT requests and receives on-line medical direction,
 - ii. When and how an EMCT notifies a health care institution of the EMCT's intent to transport a patient to the health care institution, and

Department of Health Services – Emergency Medical Services

- iii. What procedures an EMCT follows in the event of a communications equipment failure;
 - b. A triage protocol for:
 - i. How an EMCT assesses and prioritizes the medical condition of a patient,
 - ii. How an EMCT selects a health care institution to which a patient may be transported,
 - iii. How a patient is transported to the health care institution, and
 - iv. When on-line medical direction is required;
 - c. A treatment protocol for:
 - i. How an EMCT performs a medical treatment on a patient or administers an agent to a patient, and
 - ii. When on-line medical direction is required while an EMCT is providing treatment; and
 - d. A protocol for the transfer of information to the emergency receiving facility, including:
 - i. The information required to be communicated to emergency receiving facility staff upon transfer of care, including the condition of the patient, the treatment provided to the patient, and the patient's response to the treatment;
 - ii. The information required to be documented on a prehospital incident history report; and
 - iii. The time-frame, which is associated with the transfer of care, for completion of a prehospital incident history report;
 3. Policies and procedures are established, documented, and implemented by an administrative medical director, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that:
 - a. Are consistent with an EMCT's scope of practice, as specified in Table 5.1;
 - b. Cover:
 - i. Medical recordkeeping;
 - ii. Medical reporting;
 - iii. Processing of prehospital incident history reports;
 - iv. Obtaining, storing, transferring, and disposing of agents to which an EMCT has access including methods to:
 - (1) Identify individuals authorized by the administrative medical director to have access to agents,
 - (2) Maintain chain of custody for controlled substances, and
 - (3) Minimize potential degradation of agents due to temperature extremes;
 - v. Administration, monitoring, or assisting in patient self-administration of an agent;
 - vi. Monitoring and evaluating an EMCT's compliance with treatment protocols, triage protocols, and communications protocols specified in subsection (E)(2);
 - vii. Monitoring and evaluating an EMCT's compliance with medical recordkeeping, medical reporting, and prehospital incident history report requirements;
 - viii. Monitoring and evaluating an EMCT's compliance with policies and procedures for agents to which the EMCT has access;
 - ix. Monitoring and evaluating an EMCT's competency in performing skills authorized for the EMCT by the EMCT's administrative medical director and within the EMCT's scope of practice, as specified in Table 5.1;
 - x. Ongoing education, training, or remediation necessary to maintain or enhance an EMCT's competency in performing skills within the EMCT's scope of practice, as specified in Table 5.1;
 - xi. The process by which administrative medical direction is withdrawn from an EMCT; and
 - xii. The process for reinstating an EMCT's administrative medical direction; and
 - c. Include a quality assurance process to evaluate the effectiveness of the administrative medical direction provided to EMCTs;
 4. Protocols in subsection (E)(2) and policies and procedures in subsection (E)(3) are reviewed annually by the administrative medical director and updated as necessary;
 5. Requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter are reviewed annually by the administrative medical director; and
 6. The Department is notified in writing no later than ten days after the date:
 - a. Administrative medical direction is withdrawn from an EMCT; or
 - b. An EMCT's administrative medical direction is reinstated.
- F.** An administrative medical director for an emergency medical services provider or ambulance service shall ensure that:
1. An EMCT for whom the administrative medical director provides administrative medical direction:
 - a. Has access to at least the minimum supply of agents required for the highest level of service to be provided by the EMCT;
 - b. Administers, monitors, or assists in patient self-administration of an agent according to the requirements in policies and procedures; and
 - c. Has access to a copy of the policies and procedures required in subsection (F)(2) while on duty for the emergency medical services provider or ambulance service;
 2. Policies and procedures for agents to which an EMCT has access:
 - a. Specify that an agent is obtained only from a person:
 - i. Authorized by law to prescribe the agent, or
 - ii. Licensed under A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23 to dispense or distribute the agent;
 - b. Cover chain of custody and transfer procedures for each supply of agents, requiring an EMCT for whom the administrative medical director provides administrative medical direction to:
 - i. Document the name and the EMCT certification number or employee identification number of each individual who takes physical control of the supply of agents;
 - ii. Document the time and date that each individual takes physical control of the supply of agents;

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

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-201 renumbered to R9-25-207; new R9-25-201 made by final rule-making at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section R9-25-201 renumbered from R9-25-202 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-202. On-line Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))

- A.** An emergency medical services provider or ambulance service shall:
1. Ensure that a physician provides on-line medical direction to EMCTs on behalf of the emergency medical services provider or ambulance service only if the physician meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
 - c. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - d. Is an emergency medicine physician in an emergency department located in Arizona and has current certification that meets the requirements in R9-25-201(A)(1)(d)(i) through (iii);
 2. For each physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service, maintain for Department review either:
 - a. The name, e-mail address, telephone number, and qualifications of the physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service; or
 - b. If the emergency medical services provider or ambulance service provides on-line medical direction through an ALS base hospital or a centralized medical direction communications center, a copy of a written agreement with the ALS base hospital or centralized medical direction communications center documenting that the physician providing on-line medical direction is qualified under subsection (A)(1);
 3. Ensure that the on-line medical direction provided to an EMCT on behalf of the emergency medical services provider or ambulance service is consistent with:
 - a. The EMCT's scope of practice, as specified in Table 5.1; and
 - b. Communication protocols, triage protocols, treatment protocols, and protocols for prehospital incident history reports, specified in R9-25-201(E)(2); and
 4. Ensures that a physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service relays on-line medical direction only through one of the following individuals, under the supervision of the physician and consistent with the individual's scope of practice:
 - a. Another physician,

Department of Health Services – Emergency Medical Services

- b. A physician assistant,
 - c. A registered nurse practitioner,
 - d. A registered nurse,
 - e. A Paramedic, or
 - f. An EMT-I(99).
- B.** An emergency medical services provider or ambulance service may provide on-line medical direction through an ALS base hospital that is a special hospital, if the emergency medical services provider or ambulance service:
1. Uses the ALS base hospital that is a special hospital for on-line medical direction only for patients who are children, and
 2. Has a written agreement with an ALS base hospital that meets the requirements in R9-25-203(B)(1) or a centralized medical direction communications center for the provision of on-line medical direction.
- C.** An emergency medical services provider or ambulance service shall ensure that the emergency medical services provider or ambulance service, or an ALS base hospital or a centralized medical direction communications center providing on-line medical direction on behalf of the emergency medical services provider or ambulance service, has:
1. Operational and accessible communication equipment that will allow on-line medical direction to be given to an EMCT;
 2. A written plan for alternative communications with an EMCT in the event of a disaster, communication equipment breakdown or repair, power outage, or malfunction; and
 3. A physician qualified under subsection (A)(1) available to give on-line medical direction to an EMCT 24 hours a day, seven days a week.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-202 renumbered to R9-25-208; new R9-25-202 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-202 renumbered to Section R9-25-201; new Section R9-25-202 renumbered from R9-25-203 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit A. Repealed

Historical Note

Exhibit A adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-203. ALS Base Hospital General Requirements (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5), (6), and (7))

- A.** A person shall not operate as an ALS base hospital without certification from the Department.
- B.** The Department shall certify an ALS base hospital if the applicant:
1. Is:
 - a. Licensed as a general hospital under 9 A.A.C. 10, Article 2; or
 - b. A facility operated as a hospital in this state by the United States federal government or by a sovereign tribal nation;
 2. Maintains at least one current written agreement described in A.R.S. § 36-2201(4);
 3. Has not been decertified as an ALS base hospital by the Department within five years before submitting the application;
 4. Submits an application that is complete and compliant with the requirements in this Article; and
 5. Has not knowingly provided false information on or with an application required by this Article.
- C.** The Department may certify as an ALS base hospital a special hospital, which is licensed under 9 A.A.C. 10, Article 2 and provides surgical services and emergency services only to children, if the applicant:
1. Meets the requirements in subsection (B)(2) through (5), and
 2. Provides administrative medical direction or on-line medical direction only for patients who are children.
- D.** An ALS base hospital certificate is valid only for the name and address listed by the Department on the certificate.
- E.** At least every 24 months after certification, the Department shall inspect, according to A.R.S. § 41-1009, an ALS base hospital to determine ongoing compliance with the requirements of this Article.
- F.** The Department may inspect an ALS base hospital according to A.R.S. § 41-1009:
1. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079; or
 2. As necessary to determine compliance with the requirements of this Article.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-203 renumbered to Section R9-25-202; new Section R9-25-203 renumbered from R9-25-207 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-204. Application Requirements for ALS Base Hospital Certification (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5))

- A.** An applicant for ALS base hospital certification shall submit to the Department an application, in a Department-provided format, including:
1. A form containing:
 - a. The applicant's name, address, and telephone number;
 - b. The name, email address, and telephone number of the applicant's chief administrative officer;

Department of Health Services – Emergency Medical Services

- c. The name, email address, and telephone number of the applicant’s chief administrative officer’s designee if the chief administrative officer will not be the liaison between the ALS base hospital and the Department;
 - d. Whether the applicant is applying for certification of a:
 - i. General hospital licensed under 9 A.A.C. 10, Article 2;
 - ii. Special hospital licensed under 9 A.A.C. 10, Article 2, that provides surgical services and emergency services only to children; or
 - iii. Facility operating as a federal or tribal hospital;
 - e. The name of each emergency medical services provider or ambulance service for which the applicant has a current written agreement described in A.R.S. § 36-2201(4);
 - f. The name, address, email address, and telephone number of each administrative medical director;
 - g. The name of each physician providing on-line medical direction;
 - h. Attestation that the applicant meets the requirements in R9-25-202(C);
 - i. Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter;
 - j. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - k. The signature or electronic signature of the applicant’s chief administrative officer or the chief administrative officer’s designated representative and date of signature or electronic signature;
2. A copy of the applicant’s current hospital license issued under 9 A.A.C. 10, Article 2, if applicable; and
 3. A copy of each executed written agreement described in A.R.S. § 36-2201(4), including all attachments and exhibits.
- B.** The Department shall approve or deny an application under this Section according to Article 12 of this Chapter.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-204 renumbered to R9-25-209; new R9-25-204 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-204 repealed; new Section R9-25-204 renumbered from R9-25-208 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-205. Changes Affecting an ALS Base Hospital Certificate (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5) and (6))

- A.** No later than 10 days after the date of a change in the name listed on the ALS base hospital certificate, an ALS base hospital certificate holder shall notify the Department of the change, in a Department-provided format, including:
1. The current name of the ALS base hospital;
 2. The ALS base hospital’s certificate number;
 3. The new name and the effective date of the name change;
 4. Documentation supporting the name change;
 5. Documentation of compliance with the requirements in A.A.C. R9-10-109(A), if applicable;
 6. Attestation that all information submitted to the Department is true and correct; and
 7. The signature or electronic signature of the applicant’s chief administrative officer or the chief administrative officer’s designated representative and date of signature or electronic signature.
- B.** No later than 10 days after the date of a change in the address listed on an ALS base hospital certificate or a change in ownership, as defined in A.A.C. R9-10-101, an ALS base hospital certificate holder shall submit to the Department an application required in R9-25-204(A).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section R9-25-205 repealed; new Section R9-25-205 renumbered from R9-25-209 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-206. ALS Base Hospital Authority and Responsibilities (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5) and (6), 36-2208(A), and 36-2209(A)(2))

- A.** An ALS base hospital certificate holder shall:
1. Have the capability of providing both administrative medical direction and on-line medical direction;
 2. Provide administrative medical direction and on-line medical direction to an EMCT according to:
 - a. A written agreement described in A.R.S. § 36-2201(4);
 - b. Except as provided in subsection (D), the requirements in R9-25-201 for administrative medical direction; and
 - c. The requirements in R9-25-202 for on-line medical direction; and
 3. Ensure that personnel are available to provide administrative medical direction and on-line medical direction.
- B.** No later than 10 days after the date of a change in an administrative medical director listed on the ALS base hospital’s application, as required in R9-25-204(A)(1)(f), an ALS base hospital certificate holder shall notify the Department of the change, in a Department-provided format, including:
1. The name of the ALS base hospital,
 2. The ALS base hospital’s certificate number,
 3. The name of the new administrative medical director and the effective date of the change,
 4. Attestation that the new administrative medical director meets the requirements in R9-25-201(A)(1),

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5. Attestation that all information submitted to the Department is true and correct, and
 6. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- C. An ALS base hospital certificate holder shall:
1. Notify the Department in writing no later than 24 hours after ceasing to meet the requirement in :
 - a. R9-25-203(B)(1) or (2); or
 - b. For a special hospital, R9-25-203(B)(2) or (C); and
 2. No later than 48 hours after terminating, adding, or amending a written agreement required in R9-25-203(B)(2), notify the Department in writing and, if applicable, submit to the Department a copy of the new or amended written agreement described in A.R.S. § 36-2201(4).
- D. An ALS base hospital may act as a training program without training program certification from the Department, if the ALS base hospital:
1. Is eligible for training program certification as provided in R9-25-301(C); and
 2. Complies with the requirements in R9-25-301(D), R9-25-302, R9-25-303(B), (C), and (F), and R9-25-304 through R9-25-306.
- E. If an ALS base hospital's pharmacy provides all of the agents for an emergency medical services provider or ambulance service, and the ALS base hospital owns the agents provided, the ALS base hospital's certificate holder shall ensure that:
1. Except as stated in subsections (E)(2) and (3), the policies and procedures for agents to which an EMCT has access that are established by the administrative medical director for the emergency medical services provider or ambulance service comply with requirements in R9-25-201(F)(2);
 2. The emergency medical services provider or ambulance service requires an EMCT for the emergency medical services provider or ambulance service to notify the pharmacist in charge of the hospital pharmacy of a missing, visibly adulterated, or depleted controlled substance; and
 3. The pharmacist in charge of the hospital pharmacy notifies the Department, as specified in R9-25-201(F)(3), of a missing, visibly adulterated, or depleted controlled substance.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Amended effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Former R9-25-206 renumbered to R9-25-210; new R9-25-206 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-206 repealed; new Section R9-25-206 renumbered from R9-25-210 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

The following Exhibit was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit this change to the Secretary of State's Office for publication in the Arizona Administrative Register as proposed rules; the Department did not submit the change to the Governor's Regulatory Review Council for review; and the Department was not required to hold public hearings on the repealing of this Exhibit (Supp. 98-4).

Exhibit B. Repealed

Historical Note

Exhibit B adopted effective October 15, 1996 (Supp. 96-4). Repealed effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4).

R9-25-207. ALS Base Hospital Enforcement Actions (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(7))

- A. The Department may take an action listed in subsection (B) against an ALS base hospital certificate holder who:
1. Does not meet the certification requirements in R9-25-203(B)(1) or (2) or (C);
 2. Violates the requirements in A.R.S. Title 36, Chapter 21.1 or 9 A.A.C. 25; or
 3. Knowingly or negligently provides false documentation or information to the Department.
- B. The Department may take the following action against an ALS base hospital certificate holder:
1. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue a letter of censure,
 2. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue an order of probation,
 3. After notice and an opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10, suspend the ALS base hospital certificate, or
 4. After notice and an opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10, decertify the ALS base hospital.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-207 repealed; new R9-25-207 renumbered from R9-25-201 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-207 renumbered to Section R9-25-203; new Section R9-25-207 renumbered from Section R9-25-211 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

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R9-25-208. Renumbered

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-208 repealed; new R9-25-208 renumbered from R9-25-202 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-208 renumbered to Section R9-25-204 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-209. Renumbered

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-209 repealed; new R9-25-209 renumbered from R9-25-204 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-209 renumbered to Section R9-25-205 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-210. Renumbered

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-210 repealed; new R9-25-210 renumbered from R9-25-206 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-210 renumbered to Section R9-25-206 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-211. Renumbered

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-211 repealed; new R9-25-211 renumbered from R9-25-213 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-211 renumbered to Section R9-25-207 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-212. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-213. Renumbered

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section renumbered to R9-25-211 by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL CARE TECHNICIANS

Article 5, consisting of R9-25-501 through R9-25-508, recodified from Article 8 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Article 5 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-501. Definitions

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. “ALS skill” means a medical treatment, procedure, or technique or administration of a medication that is indicated by a check mark in Table 5.1 under AEMT, EMT-I(99), or Paramedic, but not under EMT.
2. “Immunizing agent” means an immunobiologic recommended by the Advisory Committee on Immunization Practices of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-501 recodified from R9-25-801 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Section R9-25-501 repealed; new Section R9-25-501 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-502. Scope of Practice for EMCTs

A. An EMCT shall perform a medical treatment, procedure, or technique or administer a medication only:

1. If the skill is within the EMCT’s scope of practice skills, as specified in Table 5.1;
2. For an ALS skill:
 - a. If authorized for the EMCT by the EMCT’s administrative medical director, and
 - b. If the EMCT is able to receive on-line medical direction;
3. For a STR skill :
 - a. If the EMCT has documentation of having completed training specific to the skill that is consistent with the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov;
 - b. If authorized for the EMCT by the EMCT’s administrative medical director; and

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- c. If the EMCT is able to receive on-line medical direction;
 - 4. If the medication is listed as an agent in Table 5.2, Table 5.3, or Table 5.4 under the classification for which the EMCT is certified;
 - 5. If the EMCT is authorized to administer the medication by the:
 - a. EMCT’s administrative medical director, if applicable; or
 - b. If the EMCT is an EMT with no administrative medical director, emergency medical services provider or ambulance service by which the EMCT is employed or for which the EMCT volunteers; and
 - 6. In a manner consistent with standards described in R9-25-408 and, if applicable, with the training in 9 A.A.C. 25, Article 3.
- B.** An administrative medical director:
- 1. Shall:
 - a. Ensure that an EMCT has completed training in administration or monitoring of an agent before authorizing the EMCT to administer or monitor the agent;
 - b. Ensure that an EMCT has competency in an ALS skill before authorizing the EMCT to perform the ALS skill;
 - c. Before authorizing an EMCT to perform a STR skill, ensure that the EMCT has:
 - i. Completed training specific to the skill, consistent with the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov; and
 - ii. Demonstrated competency in the skill;
 - d. Periodically thereafter assess an EMCT’s competency in an authorized ALS skill and STR skill, according to policies and procedures required in R9-25-201(C)(3)(b)(viii), to ensure continued competency; e. Document the EMCT’s:
 - i. Completion of training in administration or monitoring of an agent required in subsection (B)(1)(a),
 - ii. Competency in performing an ALS skill required in subsection (B)(1)(b),
 - iii. Specific training required in subsection (B)(1)(c)(i) and competency required in subsection (B)(1)(c)(ii), and
 - iv. Periodic reassessment required in subsection (B)(1)(d); and
 - f. Maintain documentation of an EMCT’s completion of training in administration or monitoring of an agent and competency in performing an authorized ALS skill or STR skill; and
 - 2. May authorize an EMCT to perform all of the ALS skills in Table 5.1 for the applicable level of EMCT or restrict the EMCT to a subset of the ALS skills in Table 5.1 for the applicable level of EMCT.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-502 recodified from R9-25-802 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Table 1. Repealed

Historical Note

Table 1 adopted by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 578, effective January 31, 2007 (Supp. 07-1). Historical note added to Table 1; amended by exempt rulemaking 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 234, effective January 2, 2009 (Supp. 09-1). Amended by exempt rulemaking at 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 234, effective January 2, 2009 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 2116, effective October 15, 2010 (Supp. 10-4). Amended by exempt rulemaking at 18 A.A.R. 102, effective January 1, 2012 (Supp. 11-4). Table 1 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Table 5.1. Arizona Scope of Practice Skills

KEY:

- ü = Arizona Scope of Practice skill
- STR = STR skill
- * = Already intubated

Airway/Ventilation/Oxygenation		EMT	AEMT	EMT-I(99)	Paramedic
	Airway- esophageal	STR	ü	ü	ü
	Airway- supraglottic	STR	ü	ü	ü
	Airway- nasal	ü	ü	ü	ü
	Airway- oral	ü	ü	ü	ü
	Automated transport ventilator	STR	STR	ü	ü
	Bag-valve-mask (BVM)	ü	ü	ü	ü

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BiPAP/CPAP				Ü
Chest decompression- needle			Ü	Ü
Chest tube placement- assist only				STR
Chest tube monitoring and management				STR
Cricoid pressure (Sellick’s maneuver)	Ü	Ü	Ü	Ü
Cricothyrotomy- needle			STR	Ü
Cricothyrotomy- percutaneous			STR	Ü
Cricothyrotomy- surgical			STR	STR
Demand valve- manually triggered ventilation	Ü	Ü	Ü	Ü
End tidal CO2 monitoring/capnography			Ü	Ü
Gastric decompression- NG tube			Ü	Ü
Gastric decompression- OG tube			Ü	Ü
Head-tilt chin lift	Ü	Ü	Ü	Ü
Intubation- nasotracheal			STR	Ü
Intubation- orotracheal	STR	STR	Ü	Ü
Jaw-thrust	Ü	Ü	Ü	Ü
Jaw-thrust – modified (trauma)	Ü	Ü	Ü	Ü
Medication Assisted Intubation (paralytics)				STR
Mouth-to-barrier	Ü	Ü	Ü	Ü
Mouth-to-mask	Ü	Ü	Ü	Ü
Mouth-to-mouth	Ü	Ü	Ü	Ü
Mouth-to-nose	Ü	Ü	Ü	Ü
Mouth-to-stoma	Ü	Ü	Ü	Ü
Obstruction- direct laryngoscopy			Ü	Ü
Obstruction- manual	Ü	Ü	Ü	Ü
Oxygen therapy - humidifiers	Ü	Ü	Ü	Ü
Oxygen therapy - nasal cannula	Ü	Ü	Ü	Ü
Oxygen therapy - non-rebreather mask	Ü	Ü	Ü	Ü
Oxygen therapy - partial rebreather mask	Ü	Ü	Ü	Ü
Oxygen therapy - simple face mask	Ü	Ü	Ü	Ü
Oxygen therapy - venturi mask	Ü	Ü	Ü	Ü

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	PEEP - therapeutic			Ü	Ü
	Pulse oximetry	Ü	Ü	Ü	Ü
	Suctioning - upper airway	Ü	Ü	Ü	Ü
	Suctioning - tracheobronchial		Ü*	Ü	Ü
Cardiovascular/Circulation		EMT	AEMT	EMT-I (99)	Paramedic
	Cardiac monitoring - multiple lead (interpretive)			Ü	Ü
	Cardiac monitoring - single lead (interpretive)			Ü	Ü
	Cardiac - multiple lead acquisition (non-interpretive)	STR	STR	Ü	Ü
	Cardiopulmonary resuscitation	Ü	Ü	Ü	Ü
	Cardioversion - electrical			Ü	Ü
	Carotid massage – (≤17 years)			STR	STR
	Defibrillation - automatic/semi-automatic	Ü	Ü	Ü	Ü
	Defibrillation - manual			Ü	Ü
	Hemorrhage control - direct pressure	Ü	Ü	Ü	Ü
	Hemorrhage control - tourniquet	Ü	Ü	Ü	Ü
	Internal; cardiac pacing - monitoring only			Ü	Ü
	Mechanical CPR device	STR	STR	STR	STR
	Transcutaneous pacing - manual			Ü	Ü
Immobilization		EMT	AEMT	EMT-I (99)	Paramedic
	Spinal immobilization - cervical collar	Ü	Ü	Ü	Ü
	Spinal immobilization - long board	Ü	Ü	Ü	Ü
	Spinal immobilization - manual	Ü	Ü	Ü	Ü
	Spinal immobilization - seated patient (KED, etc.)	Ü	Ü	Ü	Ü
	Spinal immobilization - rapid manual extrication	Ü	Ü	Ü	Ü
	Extremity stabilization - manual	Ü	Ü	Ü	Ü
	Extremity splinting	Ü	Ü	Ü	Ü
	Splint- traction	Ü	Ü	Ü	Ü
	Mechanical patient restraint	Ü	Ü	Ü	Ü
	Emergency moves for endangered patients	Ü	Ü	Ü	Ü
Medication administration - routes		EMT	AEMT	EMT-I (99)	Paramedic

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	Aerosolized/nebulized (beta agonist)	STR	Ü	Ü	Ü
	Assisting patient with his/her own prescribed medications (aerosolized/nebulized)	Ü	Ü	Ü	Ü
	Assisting patient with his/her own prescribed medications (ASA/Nitro)	Ü	Ü	Ü	Ü
	Assisting patient with his/her own prescribed medications (auto-injector)	Ü	Ü	Ü	Ü
	Assisting patient with his/her own prescribed medications (hydrocortisone sodium succinate)		Ü	Ü	Ü
	Auto-injector	STR	Ü	Ü	Ü
	Buccal	STR	Ü	Ü	Ü
	Endotracheal tube			Ü	Ü
	Inhaled self-administered (nitrous oxide)		Ü	Ü	Ü
	Intradermal			STR	STR
	Intramuscular		Ü	Ü	Ü
	Intranasal	STR	Ü	Ü	Ü
	Intravenous push		Ü	Ü	Ü
	Intravenous piggyback			Ü	Ü
	Intraosseous		STR	Ü	Ü
	Nasogastric				Ü
	Oral	Ü	Ü	Ü	Ü
	Rectal		STR	Ü	Ü
	Small volume nebulizer	STR	Ü	Ü	Ü
	Subcutaneous		Ü	Ü	Ü
	Sublingual		Ü	Ü	Ü
	IV initiation/maintenance fluids	EMT	AEMT	EMT-I (99)	Paramedic
	Access indwelling catheters and implanted central IV ports				Ü
	Central line- monitoring				Ü
	Intraosseous- initiation		Ü	Ü	Ü
	Intravenous access		Ü	Ü	Ü
	Intravenous initiation- peripheral	STR	Ü	Ü	Ü
	Intravenous- maintenance of non-medicated IV fluids or capped access	Ü	Ü	Ü	Ü
	Intravenous- maintenance of medicated IV fluids			Ü	Ü

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	Umbilical initiation				STR
	Miscellaneous	EMT	AEMT	EMT-I (99)	Paramedic
	Assisted delivery (childbirth)	Ü	Ü	Ü	Ü
	Assisted complicated delivery (childbirth)	Ü	Ü	Ü	Ü
	Blood glucose monitoring	Ü	Ü	Ü	Ü
	Blood pressure- automated	Ü	Ü	Ü	Ü
	Blood pressure- manual	Ü	Ü	Ü	Ü
	Eye irrigation	Ü	Ü	Ü	Ü
	Eye irrigation (Morgan lens)				STR
	Thrombolytic therapy- initiation				STR
	Urinary catheterization				STR
	Venous blood sampling			Ü	Ü
	Blood chemistry analysis				STR
	Use/monitoring of agents specified in Table 5.4 during interfacility transports			STR	STR
	Use/monitoring of infusion pump for agent administration during interfacility transports			STR	STR

Historical Note

Table 5.1 made by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking, pursuant to Laws 2015, Ch. 222, § 3, at 21 A.A.R. 3241, effective November 24, 2015 (Supp. 15-4).

Table 5.2. Eligibility for Authorization to Administer, Monitor, and Assist in Patient Self-administration of Agents by EMCT Classification; Administration Requirements; and Minimum Supply Requirements for Agents

KEY:

- A = Authorized to administer the agent
- SVN = Agent shall be administered by small volume nebulizer
- MDI = Agent shall be administered by metered dose inhaler
- * = Authorized to assist in patient self-administration
- [] = Minimum supply required if an EMS provider chooses to make the optional agent available for EMCT administration

AGENT	MINIMUM SUPPLY	EMT	AEMT	EMT-I (99)	Paramedic
Adenosine	18 mg	-	-	A	A
Albuterol Sulfate SVN or MDI (sulfite free)	10 mg	A	A	A	A

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Amiodarone or Lidocaine	300 mg or 3 prefilled syringes, total of 300 mg and 1 g vials or pre- mixed infusion, total of 2 g	- -	- -	- A	A A
Aspirin	324 mg	A	A	A	A
Atropine Sulfate	3 prefilled syringes, total of 3 mg	-	-	A	A
Atropine Sulfate	Optional [8 mg multidose vial (1)]	-	-	A	A
Atropine Sulfate Auto-Injector	None	A	A	A	A
Atropine Sulfate and Pralidoxime Chloride (Combined) Auto-Injector	None	A	A	A	A
Calcium Chloride	1 g	-	-	-	A
Calcium Gluconate, 2.5% topical gel	Optional [50 g]	A	A	A	A
Charcoal, Activated (without sorbitol)	Optional [50 g]	A	A	A	A
Cyanokit	Optional [5 g]	-	-	-	A
Dexamethasone	Optional [8 mg]	-	-	A	A
Dextrose	50 g	-	A	A	A
Dextrose, 5% in H2O	Optional [250 mL bag (1)]	A	A	A	A
Diazepam or Lorazepam or Midazolam	20 mg 8 mg 10 mg	- - -	- - -	A A A	A A A
Diazepam Rectal Delivery Gel	Optional [20 mg]	-	-	A	A
Diltiazem or Verapamil HCl	25 mg 10 mg	- -	- -	- -	A A
Diphenhydramine HCl	50 mg	-	-	A	A
Dopamine HCl	400 mg	-	-	-	A
Epinephrine Auto-Injector	Optional [2 adult auto-injectors 2 pediatric auto-injectors]	A	A	A	A
Epinephrine HCl, 1:1,000	2 mg	-	A	A	A
Epinephrine HCl, 1:1,000	Optional [30 mg multidose vial (1)]	-	A	A	A
Epinephrine HCl, 1:10,000	5 mg	-	-	A	A
Etomidate	Optional [40 mg]	-	-	-	A
Furosemide or Bumetanide	Optional [100 mg] Optional [4 mg]	- -	- -	A A	A A
Glucagon	2 mg	-	A	A	A
Glucose, oral	Optional [30 gm]	A	A	A	A
Hemostatic Agents	Optional	A	A	A	A

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Hydrocortisone Sodium Succinate	Optional	-	*	*	*
Immunizing Agent	Optional	-	-	A	A
Ipratropium Bromide 0.02% SVN or MDI	5 mL	-	-	A	A
Ketamine	Optional [200 mg]	-	-	-	A
Lactated Ringers	1 L bag (2)	A	A	A	A
Magnesium Sulfate	5 g	-	-	-	A
Methylprednisolone Sodium Succinate	250 mg	-	-	A	A
Morphine Sulfate or Fentanyl	20 mg 200 mcg	- -	A -	A A	A A
Nalmefene HCl	Optional [4 mg]	-	A	A	A
Naloxone HCl	10 mg	-	A	A	A
Naloxone HCl	Optional [Prefilled atomizers or auto-injectors; 2 doses]	A	A	A	A
Nitroglycerin Sublingual Spray or Nitroglycerin Tablets	1 bottle 1 bottle	* *	A A	A A	A A
Normal Saline	1 L bag (2) Optional [250 mL bag (1)] Optional [50 mL bag (2)]	A	A	A	A
Ondansetron HCl	Optional [4 mg]	-	-	A	A
Oxygen	13 cubic feet	A	A	A	A
Oxytocin	Optional [10 units]	-	-	A	A
Phenylephrine Nasal Spray 0.5%	Optional 1 bottle	-	-	A	A
Pralidoxime Chloride Auto-Injector	None	A	A	A	A
Proparacaine Ophthalmic	Optional [1 bottle]	-	-	A	A
Rocuronium	Optional [100 mg]	-	-	-	A
Sodium Bicarbonate 8.4%	Optional [100 mEq]	-	-	A	A
Succinylcholine	Optional [400 mg]	-	-	-	A
Thiamine HCl	100 mg	-	-	A	A
Tuberculin PPD	Optional [5 mL]	-	-	A	A
Vasopressin	Optional [40 units]	-	-	-	A

Historical Note

Table 5.2 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking, pursuant to Laws 2015, Ch. 222, § 3, at 21 A.A.R. 3241, effective November 24, 2015 (Supp. 15-4).

Table 5.3. Agents Eligible for Authorization for Administration During a Hazardous Material Incident

KEY:

[] = Minimum supply required if an EMS provider chooses to make the optional agent available for Paramedic administration

Drug Preparation	Minimum Supply
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Activated Charcoal	Optional [as determined by administrative medical director]
Albuterol	Optional [as determined by administrative medical director]
Amyl Nitrite Inhalants	Optional [as determined by administrative medical director]
Atropine	Optional [as determined by administrative medical director]
Atrovent	Optional [as determined by administrative medical director]
Calcium Carbonate	Optional [as determined by administrative medical director]
Calcium Gluconate	Optional [as determined by administrative medical director]
CyanoKit (Hydroxocobalamin)	Optional [as determined by administrative medical director]
Dextrose 50%	Optional [as determined by administrative medical director]
Diazepam	Optional [as determined by administrative medical director]
DuoDote Auto Injector	Optional [as determined by administrative medical director]
Glucagon	Optional [as determined by administrative medical director]
Methylene Blue	Optional [as determined by administrative medical director]
Neosynephrine	Optional [as determined by administrative medical director]
Propranolol	Optional [as determined by administrative medical director]
Protopam Chloride (pralidoxime)	Optional [as determined by administrative medical director]
Pyridoxine	Optional [as determined by administrative medical director]
Sodium Chloride .95	Optional [as determined by administrative medical director]
Sterile Water	Optional [as determined by administrative medical director]
Tetracaine	Optional [as determined by administrative medical director]

Historical Note

Table 5.3 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Table 5.4. Eligibility for Authorization to Administer and Monitor Transport Agents During Interfacility Transports, by EMCT Classification; Administration Requirements

KEY:

- TA = Transport agent for an EMCT with the specified certification
- IP = Agent shall be administered by infusion pump
- SVN = Agent shall be administered by small volume nebulizer

AGENT	MINIMUM SUPPLY	EMT	AEMT	EMT-I (99)	Paramedic
Amiodarone IP	None	-	-	-	TA
Antibiotics	None	-	-	TA	TA
Blood	None	-	-	-	TA
Calcium Chloride	None	-	-	-	TA
Colloids	None	-	-	TA	TA
Corticosteroids IP	None	-	-	TA	TA
Diltiazem IP	None	-	-	-	TA
Diuretics	None	-	-	TA	TA
Dopamine HCl IP	None	-	-	-	TA
Electrolytes/Crystalloids (Commercial Preparations)	None	TA	TA	TA	TA
Epinephrine IP	None	-	-	TA	TA
Fentanyl IP	None	-	-	TA	TA
Fosphenytoin Na IP or Phenytoin Na IP	None	-	-	-	TA
	None	-	-	-	TA

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Glucagon	None	-	-	TA	TA
Glycoprotein IIb/IIIa Inhibitors	None	-	-	-	TA
H2 Blockers	None	-	-	TA	TA
Heparin Na IP	None	-	-	-	TA
Insulin IP	None	-	-	-	TA
Levophed IP	None	-	-	-	TA
Lidocaine IP	None	-	-	TA	TA
Magnesium Sulfate IP	None	-	-	-	TA
Midazolam IP	None	-	-	TA	TA
Morphine IP	None	-	-	TA	TA
Nitroglycerin IV Solution IP	None	-	-	-	TA
Phenobarbital Na IP	None	-	-	-	TA
Potassium Salts IP	None	-	-	-	TA
Procainamide HCl IP	None	-	-	-	TA
Propofol IP	None	-	-	-	TA
Racemic Epinephrine SVN	None	-	-	-	TA
Total Parenteral Nutrition, with or without lipids IP	None	-	-	-	TA
Vitamins	None	-	-	TA	TA

Historical Note

Table 5.4 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-503. Testing of Medical Treatments, Procedures, Medications, and Techniques that May Be Administered or Performed by an EMCT

- A. Under A.R.S. § 36-2205, the Department may authorize the testing and evaluation of a medical treatment, procedure, technique, practice, medication, or piece of equipment for possible use by an EMCT or an emergency medical services provider.
- B. Before authorizing any test and evaluation according to subsection (A), the Department director shall approve the test and evaluation according to subsections (C), (D), (E).
- C. The Department director shall consider approval of a test and evaluation conducted according to subsection (A), only if a written request for testing and evaluation:
 - 1. Is submitted to the Department director from:
 - a. The Department,
 - b. A state agency other than the Department,
 - c. A political subdivision of this state,
 - d. An EMCT,
 - e. An emergency medical services provider,
 - f. An ambulance service, or
 - g. A member of the public; and
 - 2. Includes:
 - a. A cover letter, signed and dated by the individual making the request;
 - b. An identification of the person conducting the test and evaluation;
 - c. An identification of the medical treatment, procedure, technique, practice, medication, or piece of equipment to be tested and evaluated;
 - d. An explanation of the reasons for and the benefits of the test and evaluation;
 - e. The scope of the test and evaluation, including the:
 - i. Projected number of individuals, EMCTs, emergency medical services providers, or ambulance services involved; and
 - ii. Proposed length of time required to complete the test and evaluation; and
 - f. The methodology to be used to evaluate the test's and evaluation's findings.
- D. The Department director shall approve a test and evaluation if:
 - 1. The test and evaluation does not pose a threat to the public health, safety, or welfare;
 - 2. The test is necessary to evaluate the safest and most current advances in medical treatments, procedures, techniques, practices, medications, or equipment; and
 - 3. The medical treatment, procedure, technique, practice, medication, or piece of equipment being tested and evaluated may:
 - a. Reduce or eliminate the use of outdated or obsolete medical treatments, procedures, techniques, practices, medications, or equipment;
 - b. Improve patient care; or
 - c. Benefit the public's health, safety, or welfare.

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- E. Within 180 days after receiving a written request for testing and evaluation that contains all of the information in subsection (C), the Department director shall send written notification of approval or denial of the test and evaluation to the individual making the request.
- F. Upon completion of a test and evaluation authorized by the Department director, the person conducting the test and evaluation shall submit a written report to the Department director that includes:
 - 1. An identification of the test and evaluation;
 - 2. A detailed evaluation of the test; and
 - 3. A recommendation regarding future use of the medical treatment, procedure, technique, practice, medication, or piece of equipment tested and evaluated.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-503 recodified from R9-25-803 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 578, effective January 31, 2007 (Supp. 07-1). Amended by exempt rulemaking at 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Section R9-25-503 renumbered to R9-25-505; new Section R9-25-503 renumbered from R9-25-506 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 1. Repealed

Historical Note

New Exhibit 1 recodified from Article 8, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Amended by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Amended by exempt rulemaking at 11 A.A.R. 3177, effective September 1, 2005 (Supp. 05-3). Exhibit 1 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

Exhibit 2. Repealed

Historical Note

New Exhibit 2 recodified from Article 8, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Exhibit 2 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

Exhibit 3. Repealed

Historical Note

Exhibit made by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Exhibit 3 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

R9-25-504. Protocol for Selection of a Health Care Institution for Transport

- A. Except as provided in subsection (B), an EMCT shall transport a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number to:
 - 1. An emergency receiving facility, or
 - 2. A special hospital that is physically connected to an emergency receiving facility.
- B. Under A.R.S. §§ 36-2205(D) and 36-2232(F), an EMCT who responds to a call made to 9-1-1 or a similar public emergency dispatch number may refer, advise, or transport the patient at the scene to a health care institution other than a health care institution specified in subsection (A), if the EMCT determines that:
 - 1. The patient's condition does not pose an immediate threat to life or limb, based on medical direction; and
 - 2. The health care institution is the most appropriate for the patient, based on the following:
 - a. The patient's:
 - i. Medical condition,
 - ii. Choice of health care institution, and
 - iii. Health care provider;
 - b. The location of the health care institution and the emergency medical resources available at the health care institution; and
 - c. A determination by the administrative medical director that the health care institution is able to accept and capable of treating the patient.
- C. Before initiating transport of a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number, an EMCT, emergency medical services provider, or ambulance service shall:
 - 1. Notify, by radio or telephone communication, a health care institution that is not an emergency receiving facility of the EMCT's intent to transport the patient to the health care institution; and
 - 2. Receive confirmation of the willingness of the health care institution to accept the patient.
- D. An EMCT transporting a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number to a health care institution that is not an emergency receiving facility shall transfer care of the patient to a designee authorized by:
 - 1. A physician,
 - 2. A registered nurse practitioner,
 - 3. A physician assistant, or
 - 4. A registered nurse.

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- E. An emergency medical services provider or an ambulance service that implements this rule shall make available for Department review and inspection written records relating to the transport of a patient under subsections (B), (C), and (D).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-504 recodified from R9-25-804 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 14 A.A.R. 3124, effective July 9, 2008 (Supp. 08-3). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4).

R9-25-505. Protocol for an EMT-I(99) or a Paramedic to Become Eligible to Administer an Immunizing Agent

- A. An EMT-I(99) or a Paramedic may be authorized by the EMT-I(99)'s or Paramedic's administrative medical director to administer an immunizing agent if the EMT-I(99) or Paramedic completes training that:
1. Includes:
 - a. Basic immunology and the human immune response;
 - b. Mechanics of immunity, adverse effects, dose, and administration schedule of available immunizing agents;
 - c. Response to an emergency situation, such as an allergic reaction, resulting from the administration of an immunization;
 - d. Routes of administration for available immunizing agents;
 - e. A description of the individuals to whom an EMCT may administer an immunizing agent; and
 - f. The requirements in 9 A.A.C. 6, Article 7 related to:
 - i. Obtaining written consent for administration of an immunizing agent,
 - ii. Providing immunization information and written immunization records, and
 - iii. Recordkeeping and reporting;
 2. Requires the EMT-I(99) or Paramedic to demonstrate competency in the subject matter listed in subsection (A)(1); and
 3. Is approved by the EMT-I(99)'s or Paramedic's administrative medical director based upon a determination that the training meets the requirements in subsections (A)(1) and (A)(2).
- B. An administrative medical director of an EMT-I(99) or a Paramedic who completes the training required in subsection (A) shall maintain for Department review and inspection written evidence that the EMT-I(99) or Paramedic has completed the training required in subsection (A), including at least:
1. The name of the training,
 2. The date the training was completed, and
 3. A signed and dated attestation from the administrative medical director that the training is approved.
- C. Before administering an immunizing agent to an individual, an EMT-I(99) or a Paramedic shall:
1. Receive written consent consistent with the requirements in 9 A.A.C. 6, Article 7;
 2. Provide immunization information and written immunization records consistent with the requirements in 9 A.A.C. 6, Article 7; and
 3. Provide documentary proof of immunity to the individual consistent with the requirements in 9 A.A.C. 6, Article 7.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-505 recodified from R9-25-805 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-505 repealed; new Section R9-25-505 renumbered from R9-25-503 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 1. Repealed

Historical Note

New Exhibit 1 recodified from Article 8, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Exhibit 1 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 2. Repealed

Historical Note

New Exhibit 2 recodified from Article 8, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Exhibit 2 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-506. Renumbered

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-506 recodified from R9-25-806 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-506 renumbered to R9-25-503 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-507. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-507 recodified from R9-25-807 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-507 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

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R9-25-508. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (A)(2) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-1). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-508 recodified from R9-25-808 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-508 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-509. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Section repealed by exempt rulemaking at 13 A.A.R. 3038, effective October 6, 2007 (Supp. 07-3).

R9-25-510. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 1502, effective April 1, 2005 (Supp. 05-1). Amended by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Section R9-25-510 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit P. Repealed

Historical Note

Exhibit P adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-511. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (C) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-3). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 4982, effective November 1, 2005 (Supp. 05-4). Section R9-25-511 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-512. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (A) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-1). Subsection (A) corrected again to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-3). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 16 A.A.R. 2116, effective October 15, 2010 (Supp. 10-4).

R9-25-513. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 13 A.A.R. 3038, effective October 6, 2007 (Supp. 07-3). R9-25-513 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-514. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-515. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

36-136. Powers and duties of director; compensation of personnel; rules

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.
2. Perform all duties necessary to carry out the functions and responsibilities of the department.
3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.
4. Administer and enforce the laws relating to health and sanitation and the rules of the department.
5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.
6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.
7. Prepare sanitary and public health rules.
8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.
2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to ensure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.

E. The compensation of all personnel shall be as determined pursuant to section 38-611.

F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer than eighteen months.

H. The director, by rule, shall:

1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, that are reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.
2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.
3. Define and prescribe reasonably necessary procedures that are not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.
4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to ensure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:
 - (a) Served at a noncommercial social event such as a potluck.
 - (b) Prepared at a cooking school that is conducted in an owner-occupied home.
 - (c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.
 - (d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.
 - (e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption.
 - (f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous.
 - (g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for individuals with developmental disabilities, the label must also disclose that fact. The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.

(h) A whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption.

5. Prescribe reasonably necessary measures to ensure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to ensure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to ensure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules. Primitive camp and picnic grounds offered by this state or a political subdivision of this state are exempt from rules adopted pursuant to this paragraph but are subject to approval by a county health department under sanitary regulations adopted pursuant to section 36-183.02. For the purposes of this paragraph, "primitive camp and picnic grounds" means camp and picnic grounds that are remote in nature and without accessibility to public infrastructure such as water, electricity and sewer.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.

11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.

12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.

13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.

I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.

J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.

K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (f) of this section, food and drink are exempt from the rules prescribed in subsection H of this section if offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous, without a limitation on its display area.

N. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (h) of this section, a whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption is exempt from the rules prescribed in subsection H of this section.

36-2201. Definitions

In this chapter, unless the context otherwise requires:

1. "Administrative medical direction" means supervision of emergency medical care technicians by a base hospital medical director, administrative medical director or basic life support medical director. For the purposes of this paragraph, "administrative medical director" means a physician who is licensed pursuant to title 32, chapter 13 or 17 and who provides direction within the emergency medical services and trauma system.

2. "Advanced emergency medical technician" means a person who has been trained in an advanced emergency medical technician program certified by the director or in an equivalent training program and who is certified by the director to render services pursuant to section 36-2205.

3. "Advanced life support" means the level of assessment and care identified in the scope of practice approved by the director for the advanced emergency medical technician, emergency medical technician I-99 and paramedic.

4. "Advanced life support base hospital" means a health care institution that offers general medical and surgical services, that is certified by the director as an advanced life support base hospital and that is affiliated by written agreement with a licensed ambulance service, municipal rescue service, fire department, fire district or health services district for medical direction, evaluation and control of emergency medical care technicians.
5. "Ambulance" means any publicly or privately owned surface, water or air vehicle, including a helicopter, that contains a stretcher and necessary medical equipment and supplies pursuant to section 36-2202 and that is especially designed and constructed or modified and equipped to be used, maintained or operated primarily for the transportation of individuals who are sick, injured or wounded or who require medical monitoring or aid. Ambulance does not include a surface vehicle that is owned and operated by a private sole proprietor, partnership, private corporation or municipal corporation for the emergency transportation and in-transit care of its employees or a vehicle that is operated to accommodate an incapacitated person or person with a disability who does not require medical monitoring, care or treatment during transport and that is not advertised as having medical equipment and supplies or ambulance attendants.
6. "Ambulance attendant" means any of the following:
 - (a) An emergency medical technician, an advanced emergency medical technician, an emergency medical technician I-99 or a paramedic whose primary responsibility is the care of patients in an ambulance and who meets the standards and criteria adopted pursuant to section 36-2204.
 - (b) An emergency medical responder who is employed by an ambulance service operating under section 36-2202 and whose primary responsibility is the driving of an ambulance.
 - (c) A physician who is licensed pursuant to title 32, chapter 13 or 17.
 - (d) A professional nurse who is licensed pursuant to title 32, chapter 15 and who meets the state board of nursing criteria to care for patients in the prehospital care system.
 - (e) A professional nurse who is licensed pursuant to title 32, chapter 15 and whose primary responsibility is the care of patients in an ambulance during an interfacility transport.
7. "Ambulance service" means a person who owns and operates one or more ambulances.
8. "Basic life support" means the level of assessment and care identified in the scope of practice approved by the director for the emergency medical responder and emergency medical technician.
9. "Bureau" means the bureau of emergency medical services and trauma system in the department.
10. "Centralized medical direction communications center" means a facility that is housed within a hospital, medical center or trauma center or a freestanding communication center that meets the following criteria:
 - (a) Has the ability to communicate with ambulance services and emergency medical services providers rendering patient care outside of the hospital setting via radio and telephone.
 - (b) Is staffed twenty-four hours a day seven days a week by at least a physician licensed pursuant to title 32, chapter 13 or 17.
11. "Certificate of necessity" means a certificate that is issued to an ambulance service by the department and that describes the following:
 - (a) Service area.
 - (b) Level of service.
 - (c) Type of service.
 - (d) Hours of operation.
 - (e) Effective date.
 - (f) Expiration date.
 - (g) Legal name and address of the ambulance service.
 - (h) Any limiting or special provisions the director prescribes.
12. "Council" means the emergency medical services council.
13. "Department" means the department of health services.
14. "Director" means the director of the department of health services.

15. "Emergency medical care technician" means an individual who has been certified by the department as an emergency medical technician, an advanced emergency medical technician, an emergency medical technician I-99 or a paramedic.
16. "Emergency medical responder" as an ambulance attendant means a person who has been trained in an emergency medical responder program certified by the director or in an equivalent training program and who is certified by the director to render services pursuant to section 36-2205.
17. "Emergency medical services" means those services required following an accident or an emergency medical situation:
 - (a) For on-site emergency medical care.
 - (b) For the transportation of the sick or injured by a licensed ground or air ambulance.
 - (c) In the use of emergency communications media.
 - (d) In the use of emergency receiving facilities.
 - (e) In administering initial care and preliminary treatment procedures by emergency medical care technicians.
18. "Emergency medical services provider" means any governmental entity, quasi-governmental entity or corporation whether public or private that renders emergency medical services in this state.
19. "Emergency medical technician" means a person who has been trained in an emergency medical technician program certified by the director or in an equivalent training program and who is certified by the director as qualified to render services pursuant to section 36-2205.
20. "Emergency receiving facility" means a licensed health care institution that offers emergency medical services, is staffed twenty-four hours a day and has a physician on call.
21. "Fit and proper" means that the director determines that an applicant for a certificate of necessity or a certificate holder has the expertise, integrity, fiscal competence and resources to provide ambulance service in the service area.
22. "Medical record" means any patient record, including clinical records, prehospital care records, medical reports, laboratory reports and statements, any file, film, record or report or oral statements relating to diagnostic findings, treatment or outcome of patients, whether written, electronic or recorded, and any information from which a patient or the patient's family might be identified.
23. "National certification organization" means a national organization that tests and certifies the ability of an emergency medical care technician and whose tests are based on national education standards.
24. "National education standards" means the emergency medical services education standards of the United States department of transportation or other similar emergency medical services education standards developed by that department or its successor agency.
25. "Paramedic" means a person who has been trained in a paramedic program certified by the director or in an equivalent training program and who is certified by the director to render services pursuant to section 36-2205.
26. "Physician" means any person licensed pursuant to title 32, chapter 13 or 17.
27. "Stretcher van" means a vehicle that contains a stretcher and that is operated to accommodate an incapacitated person or person with a disability who does not require medical monitoring, aid, care or treatment during transport.
28. "Suboperation station" means a physical facility or location at which an ambulance service conducts operations for the dispatch of ambulances and personnel and that may be staffed twenty-four hours a day or less as determined by system use.
29. "Trauma center" means any acute care hospital that provides in-house twenty-four hour daily dedicated trauma surgical services that is designated pursuant to section 36-2225.
30. "Trauma registry" means data collected by the department on trauma patients and on the incidence, causes, severity, outcomes and operation of a trauma system and its components.
31. "Trauma system" means an integrated and organized arrangement of health care resources having the specific capability to perform triage, transport and provide care.
32. "Validated testing procedure" means a testing procedure that is inclusive of practical skills, or an attestation of practical skills proficiency on a form developed by the department by the educational

training program, identified pursuant to section 36-2204, paragraph 2, that is certified as valid by an organization capable of determining testing procedure and testing content validity and that is recommended by the medical direction commission and the emergency medical services council before the director's approval.

33. "Wheelchair van" means a vehicle that contains or that is designed and constructed or modified to contain a wheelchair and that is operated to accommodate an incapacitated person or person with a disability who does not require medical monitoring, aid, care or treatment during transport.

36-2202. Duties of the director; qualifications of medical director

A. The director shall:

1. Appoint a medical director of the emergency medical services and trauma system.
2. Adopt standards and criteria for the denial or granting of certification and recertification of emergency medical care technicians. These standards shall allow the department to certify qualified emergency medical care technicians who have completed statewide standardized training required under section 36-2204, paragraph 1 and a standardized certification test required under section 36-2204, paragraph 2 or who hold valid certification with a national certification organization. Before the director may consider approving a statewide standardized training or a standardized certification test, or both, each of these must first be recommended by the medical direction commission and the emergency medical services council to ensure that the standardized training content is consistent with national education standards and that the standardized certification tests examines comparable material to that examined in the tests of a national certification organization.
3. Adopt standards and criteria that pertain to the quality of emergency care pursuant to section 36-2204.
4. Adopt rules necessary to carry out this chapter. Each rule shall identify all sections and subsections of this chapter under which the rule was formulated.
5. Adopt reasonable medical equipment, supply, staffing and safety standards, criteria and procedures for issuance of a certificate of registration to operate an ambulance.
6. Maintain a state system for recertifying emergency medical care technicians, except as otherwise provided by section 36-2202.01, that is independent from any national certification organization recertification process. This system shall allow emergency medical care technicians to choose to be recertified under the state or the national certification organization recertification system subject to subsection H of this section.

B. Emergency medical technicians who choose the state recertification process shall recertify in one of the following ways:

1. Successfully completing an emergency medical technician refresher course approved by the department.
2. Successfully completing an emergency medical technician challenge course approved by the department.
3. For emergency medical care technicians who are currently certified at the emergency medical technician level by the department, attesting on a form provided by the department that the applicant holds a valid and current cardiopulmonary resuscitation certification, has and will maintain documented proof of a minimum of twenty-four hours of continuing medical education within the last two years consistent with department rules and has functioned in the capacity of an emergency medical technician for at least two hundred forty hours during the last two years.

C. After consultation with the emergency medical services council the director may authorize pilot programs designed to improve the safety and efficiency of ambulance inspections for governmental or quasi-governmental entities that provide emergency medical services in this state.

D. The rules, standards and criteria adopted by the director pursuant to subsection A, paragraphs 2, 3, 4 and 5 of this section shall be adopted in accordance with title 41, chapter 6, except that the director may adopt on an emergency basis pursuant to section 41-1026 rules relating to the regulation of ambulance services in this state necessary to protect the public peace, health and safety in advance of adopting rules, standards and criteria as otherwise provided by this subsection.

E. The director may waive the requirement for compliance with a protocol adopted pursuant to section 36-2205 if the director determines that the techniques, drug formularies or training makes the protocol inconsistent with contemporary medical practices.

F. The director may suspend a protocol adopted pursuant to section 36-2205 if the director does all of the following:

1. Determines that the rule is not in the public's best interest.
2. Initiates procedures pursuant to title 41, chapter 6 to repeal the rule.
3. Notifies all interested parties in writing of the director's action and the reasons for that action. Parties interested in receiving notification shall submit a written request to the director.

G. To be eligible for appointment as the medical director of the emergency medical services and trauma system, the person shall be qualified in emergency medicine and shall be licensed as a physician in one of the states of the United States.

H. Applicants for certification shall apply to the director for certification. Emergency medical care technicians shall apply for recertification to the director every two years. The director may extend the expiration date of an emergency medical care technician's certificate for thirty days. The department shall establish a fee for this extension by rule. Emergency medical care technicians shall pass an examination administered by the department as a condition for recertification only if required to do so by the advanced life support base hospital's medical director or the emergency medical care technician's medical director.

I. The medical director of the emergency medical services and trauma system is exempt from title 41, chapter 4, articles 5 and 6 and is entitled to receive compensation pursuant to section 38-611, subsection A.

J. The standards, criteria and procedures adopted by the director pursuant to subsection A, paragraph 5 of this section shall require that ambulance services serving a rural or wilderness certificate of necessity area with a population of less than ten thousand persons according to the most recent United States decennial census have at least one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (a) and one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (b) staffing an ambulance while transporting a patient and that ambulance services serving a population of ten thousand persons or more according to the most recent United States decennial census have at least one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (a) and one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (a), (c), (d) or (e) staffing an ambulance while transporting a patient.

K. If the department determines there is not a qualified administrative medical director, the department shall ensure the provision of administrative medical direction for an emergency medical technician if the emergency medical technician meets all of the following criteria:

1. Is employed by a nonprofit or governmental provider employing less than twelve full-time emergency medical technicians.
2. Stipulates to the inability to secure a physician who is willing to provide administrative medical direction.
3. Stipulates that the provider agency does not provide administrative medical direction for its employees.

36-2204. Medical control

The medical director of the statewide emergency medical services and trauma system, the emergency medical services council and the medical direction commission shall recommend to the director the following standards and criteria that pertain to the quality of emergency patient care:

1. Statewide standardized training, certification and recertification standards for all classifications of emergency medical care technicians.
2. A standardized and validated testing procedure for all classifications of emergency medical care technicians.
3. Medical standards for certification and recertification of training programs for all classifications of emergency medical care technicians.

4. Standardized continuing education criteria for all classifications of emergency medical care technicians.
5. Medical standards for certification and recertification of certified emergency receiving facilities and advanced life support base hospitals and approval of physicians providing medical control or medical direction for any classification of emergency medical care technicians who are required to be under medical control or medical direction.
6. Standards and mechanisms for monitoring and ongoing evaluation of performance levels of all classifications of emergency medical care technicians, emergency receiving facilities and advanced life support base hospitals and approval of physicians providing medical control or medical direction for any classification of emergency medical care technicians who are required to be under medical control or medical direction.
7. Objective criteria and mechanisms for decertification of all classifications of emergency medical care technicians, emergency receiving facilities and advanced life support base hospitals and for disapproval of physicians providing medical control or medical direction for any classification of emergency care technicians who are required to be under medical control or medical direction.
8. Medical standards for nonphysician prehospital treatment and prehospital triage of patients requiring emergency medical services.
9. Standards for emergency medical dispatcher training, including prearrival instructions. For the purposes of this paragraph, "emergency medical dispatch" means the receipt of calls requesting emergency medical services and the response of appropriate resources to the appropriate location.
10. Standards for a quality assurance process for components of the statewide emergency medical services and trauma system, including standards for maintaining the confidentiality of the information considered in the course of quality assurance and the records of the quality assurance activities pursuant to section 36-2403.
11. Standards for ambulance service and medical transportation that give consideration to the differences between urban, rural and wilderness areas.
12. Standards to allow an ambulance to transport a patient to a health care institution that is licensed as a special hospital and that is physically connected to an emergency receiving facility.

36-2205. Permitted treatment and medication; certification requirement; protocols

- A. The director, in consultation with the medical director of the emergency medical services and trauma system, the emergency medical services council and the medical direction commission, shall establish protocols, which may include training criteria, governing the medical treatments, procedures, medications and techniques that may be administered or performed by each classification of emergency medical care technician. These protocols shall consider the differences in treatments and procedures for regional, urban, rural and wilderness areas and shall require that emergency medical care technicians authorized to perform advanced life support procedures render these treatments, procedures, medications or techniques only under the direction of a physician.
- B. The protocols adopted by the director pursuant to this section are exempt from title 41, chapter 6.
- C. Notwithstanding subsection B of this section, a person may petition the director, pursuant to section 41-1033, to amend a protocol adopted by the director.
- D. In consultation with the medical director of the emergency medical services and trauma system, the emergency medical services council and the medical direction commission, the director shall establish protocols for emergency medical providers to refer and advise a patient or transport a patient by the most appropriate means to the most appropriate provider of medical services based on the patient's condition. The protocols shall consider the differences in treatments and procedures for regional, urban, rural and wilderness areas and shall require that emergency medical care technicians authorized to perform advanced life support procedures render these treatments, procedures, medications or techniques only under the direction of a physician.
- E. The protocols established pursuant to subsection D of this section shall include triage and treatment protocols that allow all classifications of emergency medical care technicians responding to a person who

has accessed 911, or a similar public dispatch number, for a condition that does not pose an immediate threat to life or limb to refer and advise a patient or transport a patient to the most appropriate health care institution, as defined in section 36-401, based on the patient's condition, taking into consideration factors including patient choice, the patient's health care provider, specialized health care facilities and local protocols.

36-2208. Bureau of emergency medical services and trauma system

A. There is established within the department a bureau of emergency medical services and trauma system that is responsible for coordinating, establishing and administering a statewide system of emergency medical services, trauma care and a trauma registry.

B. This chapter does not prevent any individual, law enforcement officer, public agency or member of a city, town, fire district or volunteer fire department from rendering on-site emergency medical care or, if, in terms of the existing medical situation, it is deemed not advisable to await the arrival of an ambulance, from transporting emergency medical patients to a hospital or an emergency receiving facility, except that if any patient objects on religious grounds, that patient shall not be administered any medical treatment or be transported to a hospital or an emergency receiving facility.

C. The director shall develop an annual statewide emergency medical and trauma services plan and submit that plan to the council for review and approval. The statewide plan shall then be submitted to the governor for final adoption. Before submitting the plan to the governor, the director shall accept comments from the authorized local agencies and governmental entities.

D. A local emergency medical services coordinating system shall develop a regional emergency medical services plan that includes a needs assessment and submit the plan to the director and to the authorized local agencies within the area. The regional plans shall be integrated into the statewide plan by the department.

E. The state plan shall contain a budget component for funding local and state emergency medical services systems from the emergency medical services operating fund established pursuant to section 36-2218 based on the needs assessment of the local emergency medical services coordinating system plans. The components shall be included in the department's budget through the normal appropriation process.

36-2209. Powers and duties of the director

A. The director shall:

1. Appoint and define the duties and prescribe the terms of employment of all employees of the bureau.
2. Adopt rules necessary for the operation of the bureau and for carrying out the purposes of this chapter.
3. Cooperate with and assist the personnel of emergency receiving facilities and other health care institutions in preparing a plan to be followed by these facilities and institutions in the event of a major disaster.
4. Cooperate with the state director of emergency management when a state of emergency or a state of war emergency has been declared by the governor.

B. The director may:

1. Request the cooperation of utilities, communications media and public and private agencies to aid and assist in the implementation and maintenance of a statewide emergency medical services system.
2. Enter into contracts and agreements with any local governmental entity, agency, facility or group that provides a similar program of emergency medical services in a contiguous state.
3. Enter into contracts and agreements for the acquisition and purchase of any equipment, tools, supplies, materials and services necessary in the administration of this chapter.
4. Enter into contracts with emergency receiving facilities, governmental entities, emergency rescue services and ambulance services, and the director may establish emergency medical services, including emergency receiving facilities, if necessary to assure the availability and quality of these services.
5. Accept and expend federal funds and private grants, gifts, contributions and devises to assist in carrying out the purposes of this chapter. These funds do not revert to the state general fund at the close of a fiscal year.

6. Establish an emergency medical services notification system that uses existing telephone communications networks.
7. Contract with private telephone companies for the establishment of a statewide emergency reporting telephone number.
8. Authorize the testing entity to collect fees determined by the director. In determining fees for testing entities the director shall consider the fees required by national certification organizations.

36-2232. Director; powers and duties; regulation of ambulance services; inspections; response time compliance

A. The director shall adopt rules to regulate the operation of ambulances and ambulance services in this state. Each rule shall identify all sections and subsections of this chapter under which the rule was formulated. The rules shall provide for the department to do the following:

1. Determine, fix, alter and regulate just, reasonable and sufficient rates and charges for the provision of ambulances, including rates and charges for advanced life support service, basic life support service, patient loaded mileage, standby waiting, subscription service contracts and other contracts for services related to the provision of ambulances. The director may establish a rate and charge structure as defined by federal medicare guidelines for ambulance services. The director shall inform all ambulance services of the procedures and methodology used to determine ambulance rates or charges.
2. Regulate operating and response times of ambulances to meet the needs of the public and to ensure adequate service. The rules adopted by the director for certificated ambulance service response times shall include uniform standards for urban, suburban, rural and wilderness geographic areas within the certificate of necessity based on, at a minimum, population density, geographic and medical considerations.
3. Determine, fix, alter and regulate bases of operation. The director may issue a certificate of necessity to more than one ambulance service within any base of operation. For the purposes of this paragraph, "base of operation" means a service area granted under a certificate of necessity.
4. Issue, amend, transfer, suspend or revoke certificates of necessity under terms consistent with this article.
5. Prescribe a uniform system of accounts to be used by ambulance services that conforms to standard accounting forms and principles for the ambulance industry and generally accepted accounting principles.
6. Require the filing of an annual financial report and other data. These rules shall require an ambulance service to file the report with the department not later than one hundred eighty days after the completion of its annual accounting period.
7. Regulate ambulance services in all matters affecting services to the public to the end that this article may be fully carried out.
8. Prescribe bonding requirements, if any, for ambulance services granted authority to provide any type of subscription service.
9. Offer technical assistance to ambulance services to maximize a healthy and viable business climate for the provision of ambulances.
10. Offer technical assistance to ambulance services in order to obtain or to amend a certificate of necessity.
11. Inspect, at a maximum of twelve month intervals, each ambulance registered pursuant to section 36-2212 to ensure that the vehicle is operational and safe and that all required medical equipment is operational. At the request of the provider, the inspection may be performed by a facility approved by the director. If a provider requests that the inspection be performed by a facility approved by the director, the provider shall pay the cost of the inspection.

B. The director may require any ambulance service offering subscription service contracts to obtain a bond in an amount determined by the director that is based on the number of subscription service contract holders and to file the bond with the director for the protection of all subscription service contract holders in this state who are covered under that subscription contract.

C. An ambulance service shall:

1. Maintain, establish, add, move or delete suboperation stations within its base of operation to ensure that the ambulance service meets the established response times or those approved by the director in a political subdivision contract.

2. Determine the operating hours of its suboperation stations to provide for coverage of its base of operation.

3. Provide the department with a list of suboperation station locations.

4. Notify the department not later than thirty days after the ambulance service makes a change in the number or location of its suboperation stations.

D. At any time the director or the director's agents may:

1. Inquire into the operation of an ambulance service, including a person operating an ambulance that has not been issued a certificate of registration or a person who does not have or is operating outside of a certificate of necessity.

2. Conduct on-site inspections of facilities, communications equipment, vehicles, procedures, materials and equipment.

3. Review the qualifications of ambulance attendants.

E. If all ambulance services that have been granted authority to operate within the same service area or that have overlapping certificates of necessity apply for uniform rates and charges, the director may establish uniform rates and charges for the service area.

F. In consultation with the medical director of the emergency medical services and trauma system, the emergency medical services council and the medical direction commission, the director of the department of health services shall establish protocols for ambulance services to refer and advise a patient or transport a patient by the most appropriate means to the most appropriate provider of medical services based on the patient's condition. The protocols shall include triage and treatment protocols that allow all classifications of emergency medical care technicians responding to a person who has accessed 911, or a similar public dispatch number, for a condition that does not pose an immediate threat to life or limb to refer and advise a patient or transport a patient to the most appropriate health care institution as defined in section 36-401 based on the patient's condition, taking into consideration factors including patient choice, the patient's health care provider, specialized health care facilities and local protocols.

G. The director, when reviewing an ambulance service's response time compliance with its certificate of necessity, shall consider in addition to other factors the effect of hospital diversion, delayed emergency department admission and the number of ambulances engaged in response or transport in the affected area.

DEPARTMENT OF HEALTH SERVICES (F-17-0703)

Title 9, Chapter 25, Article 7, Air Ambulance Service Licensing; Article 8, Air Ambulance Service Registration



**GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT**

MEETING DATE: July 6, 2017

AGENDA ITEM: E-10

TO: Members of the Governor's Regulatory Review Council
FROM: Nicholas Young, Legal Intern
DATE : June 20, 2017
SUBJECT: DEPARTMENT OF HEALTH SERVICES (F-17-0703)
Title 9, Chapter 25, Article 7, Air Ambulance Service Licensing; Article 8, Air Ambulance Service Registration

COMMENTS ON THE FIVE-YEAR-REVIEW REPORT

Purpose of the Agency and Number of Rules in the Report

The purpose of the Department of Health Services (Department) is "to protect the physical and mental health of the people of [Arizona] and to promote the highest standards for licensed health care institutions, emergency services and care facilities for adults and children." Laws 2010, Ch. 8, § 3.

This five-year-review report relates to two articles containing 24 rules and one table. Article 7 relates to air ambulance service licensing and Article 8 relates to air ambulance registration. The rules establish standards and criteria for air ambulance service licensing and registration, including eligibility, initial and renewal applications, terms and transferability, minimum standards, and enforcement actions.

Year that Each Rule was Last Amended or Newly Made

The rules were adopted in April 2006. R9-25-701, R9-25-704, R9-25-711, R9-25-715, and Table 8.1 were revised by exempt rulemaking in 2013.

Proposed Action

The Department plans to amend the rules to address concerns described in this report and to make other changes suggested by stakeholders by December 31, 2020.

Substantive or Procedural Concerns

None.

Analysis of the agency's report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. Has the agency certified that it is in compliance with A.R.S. § 41-1091?

Yes. The Department has certified its compliance with A.R.S. § 41-1091.

2. Has the agency analyzed the rules' effectiveness in achieving their objectives?

Yes. The Department has indicated that the rules are effective in achieving their objectives, with minor clarifying or improvement changes needed for some rules, as indicated in section 7 of this memo.

3. Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?

No. The Department has not received any written criticisms of the rules during the last five years.

4. Has the agency analyzed whether the rules are authorized by statute?

Yes. For general authority, the Department cites to A.R.S. § 36-136(F), "The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health." For additional general authority, the Department cites to A.R.S. §§ 36-136(A)(7), 36-2202(A)(3) and (4), and 36-2209(A)(2). Further, the Department cites to specific authority for each rule in the report.

5. Has the agency analyzed the rules' consistency with other rules and statutes?

Yes. The Department indicates that the rules are consistent with other rules and statutes with the exception of R9-25-704, which is not consistent with A.R.S. § 41-1080 since the rule does not require a license applicant to provide documentation of citizenship or alien status.

6. Has the agency analyzed the current enforcement status of the rules?

Yes. The Department indicates that the rules are currently enforced as written, and that R9-25-704 is currently enforced to be consistent with A.R.S. § 41-1080.

7. Has the agency analyzed whether the rules are clear, concise, and understandable?

Yes. The Department indicates that the rules are clear, concise, and understandable with the following exceptions:

- R9-25-705: Replace the pronoun “its” with the noun to which the pronoun refers.
- R9-25-706: Clarify that the “date of issuance” means the date the initial license was issued and that the “person wanting to transfer an air ambulance service license” refers to the current licensee.
- R9-25-707: Replace the pronoun “its” with the noun to which the pronoun it refers to, clarify that “person wanting to transfer an air ambulance service license” refers to the current licensee, and clarify “scope of the mission types provided” to include both level of care and type of transportation.
- R9-25-709: Replace the pronoun “its” with the noun to which the pronoun refers. Additionally, replace the term “summarily” with “immediately.”
- R9-25-710: Define or describe the terms “call number,” “patient reference number,” “publicizes,” and “rescue situation” where the terms are used rather than define the terms in R9-25-701, and define the term “run log.” The rule would also be more concise if the reference to A.R.S. § 36-2220 for the definition of “prehospital incident history report” were removed from the rule since the term is now defined in R9-25-101. The rule would also be more understandable if, the rule specified in the appropriate subsection of the rule, rather than in R9-25-716, how long and where the records of each mission are kept. Replace the pronoun “its” in subsections (A)(2) and (3) with the noun to which the pronoun refers.
- R9-25-711: Clarify by whom the “written guidelines” specified in subsection (C) were developed and what the term “no other transport team” means in subsection (C)(5). The rule would also be more understandable if the rule specified in subsections (D) and (E), rather than in R9-25-716, how long and where the applicable information is kept.
- R9-25-713: Specify in the rule, rather than in R9-25-716, how long and where the training information is kept.
- R9-25-715: Remove the term “as defined in A.R.S. § 36-2201” as it is unnecessary, since the term “physician” is consistently defined in R9-25-101.
- R9-25-717: Define or describe “pediatric emergency care” and correct the cross-reference to “Table 1 of Article 8 of this Chapter” to refer to Table 8.1.
- R9-25-718: Define or describe “advanced emergency cardiac life support” and correct “Table 1 of Article 8 of this Chapter” to refer to Table 8.1.
- R9-25-801: Remove the term “drug,” which is already defined in R9-25-101 and not used in the article.
- R9-25-802: Amend the term “to obtain an initial or renewal certificate of registration” to clarify that submitting an application does not guarantee that an applicant will obtain a certificate of registration. In addition, the rule would be more concise if the information about who is required to sign and attest on an application were removed because the information is now in R9-25-102 and applies to all applications in chapter 25.
- R9-25-804: Amend subsection (B) to make clear that it is the certificate holder who has the “desire to relinquish the certificate of registration” and replace the pronoun “its” in subsection (D) with the noun to which the pronoun refers.
- R9-25-806: Replace the pronoun “its” with the noun to which the pronoun refers.
- R9-25-807: Clarify the undefined terms “head strike envelope,” “flight crew,” and “density altitude.” The rule could also be improved by replacing the pronoun “its” in subsection (C)(1) with the noun to which the pronoun refers and replacing the reference

to Table 1 with the reference to Table 8.1, the title of which was changed as part of the 2013 exempt rulemaking.

8. Has the agency analyzed whether:

a. The rules are more stringent than corresponding federal law?

Yes. The Department indicates that the rules are not more stringent than corresponding federal law. Federal laws, including 14 C.F.R. 135 and 14 C.F.R. 298, apply to the regulation by the Federal Aviation Administration of aircraft used as air ambulances. In the rules, the Department requires documentation demonstrating compliance with these requirements, but does not exceed federal law except as required by state statutes.

b. There is statutory authority to exceed the requirements of federal law?

Not applicable.

9. For rules adopted after July 29, 2010, has the agency analyzed whether:

a. The rules require issuance of a regulatory permit, license or agency authorization?

Yes. The rules require the issuance of a regulatory permit.

b. It is in compliance with the general permit requirements of A.R.S. § 41-1037 or explained why it believes an exception applies?

Yes. The rules are authorized by specific authority and under A.R.S. § 36-2213, “[t]he director shall adopt rules to establish minimum standards for the operation of air ambulance services” and under § 36-2214, “[t]he director shall issue a license if the director determines that an applicant and the air ambulance service for which the license is sought comply with the requirements of this article.”

10. Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?

Yes. The Department had planned to address the concerns described in the report by submitting a Notice of Final Rulemaking to the Council by December 31, 2016. The Department did address some of the concerns by filing a Notice of Exempt rulemaking by December 31, 2013, which amended the rules to comply with statutory changes made in Laws 2012, Ch. 94, however the Department has not yet addressed the other concerns contained in the report.

Conclusion

The report meets the requirements of A.R.S. § 41-1056 and R1-6-301. This analyst recommends the report be approved.



**GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M**

MEETING DATE: July 6, 2017

AGENDA ITEM: E-10

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : June 20, 2017

SUBJECT: DEPARTMENT OF HEALTH SERVICES (F-17-0703)
Title 9, Chapter 25, Article 7, Air Ambulance Service Licensing; Article 8, Air Ambulance Service Registration

I reviewed the five-year-review report's economic, small business, and consumer impact comparison for compliance with A.R.S. § 41-1056 and make the following comments.

1. Economic Impact Comparison

The economic, small business, and consumer impact statement (EIS) from the most recent rulemaking was available for all the rules contained in the five-year-review report. At the time the EIS was written, the Department determined that the costs to the Department would be moderate to substantial. The report indicates that the Department believes the actual impacts are to their initial analysis. Article 7 describes the rules pertaining to the standards and processes for air ambulance service (AAS) licensing. Article 8 describes the standards and processes for air ambulance registration including eligibility, registration, inspections, and more.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

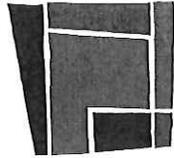
The Department has determined that, except for R9-25-704 and R9-25-710, the rules impose the least costs and burdens to persons regulated by the rules.

3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?

No analysis was submitted to the Department by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states.

4. Conclusion

Staff finds that the report complies with A.R.S. § 41-1056 and recommends approval.



ARIZONA DEPARTMENT
OF HEALTH SERVICES

April 19, 2017

Nicole A. Ong, Chairperson
Governor's Regulatory Review Council
Arizona Department of Administration
100 N. 15th Avenue, Suite 402
Phoenix, AZ 85007

RE: Report for A.A.C. Title 9, Chapter 25, Articles 7 and 8 of Emergency Medical Services

Dear Ms. Ong:

According to the five-year-review report schedule of the Governor's Regulatory Review Council (Council), a report for A.A.C. Title 9, Chapter 25 is due to the Council no later than June 30, 2017. The Arizona Department of Health Services (Department) has reviewed A.A.C. Title 9, Chapter 25, Articles 7 and 8, and is enclosing a report to the Council for these rules.

The Department believes that this report complies with the requirements of A.R.S. § 41-1056. A five-year-review summary, information that is identical for all the rules, information for individual rules, the rules reviewed, and the general and specific authority are included in the package. As described in the report, the Department plans to amend the rules in 9 A.A.C. 25, Article 7 and 8 by December 2020.

The Department certifies that it is in compliance with A.R.S. § 41-1091.

If you need any further information, please contact me at (602) 542-1020.

Sincerely,

A handwritten signature in black ink, appearing to read 'RL' followed by a stylized flourish.

Robert Lane
Director's Designee

RL:rms
Enclosures

Douglas A. Ducey | Governor Cara M. Christ, MD, MS | Director



ARIZONA DEPARTMENT OF HEALTH SERVICES

FIVE-YEAR-REVIEW REPORT

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES

EMERGENCY MEDICAL SERVICES

ARTICLE 7. AIR AMBULANCE SERVICE LICENSING

ARTICLE 8. AIR AMBULANCE REGISTRATION

April 2017

FIVE-YEAR-REVIEW REPORT
TITLE 9. HEALTH SERVICES
CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES
ARTICLE 7. AIR AMBULANCE SERVICE LICENSING
ARTICLE 8. AIR AMBULANCE REGISTRATION

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FIVE-YEAR-REVIEW REPORT
TITLE 9. HEALTH SERVICES
CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES
ARTICLE 7. AIR AMBULANCE SERVICE LICENSING
ARTICLE 8. AIR AMBULANCE REGISTRATION

FIVE-YEAR-REVIEW SUMMARY

Arizona Revised Statutes (A.R.S.) §§ 36-2202(A)(3) and (4) and 36-2209(A)(2) require the Arizona Department of Health Services (Department) to adopt standards and criteria pertaining to the quality of emergency care, rules necessary for the operation of emergency medical services, and rules for carrying out the purposes of A.R.S. Title 36, Chapter 21.1. A.R.S. § 36-2202(A)(5) requires the Department to adopt “reasonable medical equipment, supply, staffing and safety standards, criteria and procedures for issuance of a certificate of registration to operate an ambulance,” including air ambulances. A.R.S. § 36-2212 prohibits a person from operating an ambulance in Arizona unless the ambulance has a certificate of registration and complies with A.R.S. Title 36, Chapter 21.1, Article 1 and the rules, standards, and criteria adopted pursuant to the Article. A.R.S. §§ 36-2213 through 36-2215 provide specific authority for the regulation of air ambulance services. The Department has implemented these statutes in Arizona Administrative Code (A.A.C.) Title 9, Chapter 25, Articles 7 and 8, which were adopted in April 2006. The rules in R9-25-701, R9-25-704, R9-25-711, R9-25-715, and Table 8.1 were revised by exempt rulemaking in 2013.

The rules in 9 A.A.C. 25, Article 7 establish the standards and processes for air ambulance service (AAS) licensing, including eligibility, initial and renewal applications, terms and transferability of a license, changes affecting a license, inspections, and enforcement actions. The rules also include minimum standards for operations; mission staffing; air ambulance safety, equipment, and supplies; training; communications; medical control; recordkeeping; and interfacility transports. The rules in 9 A.A.C. 25, Article 8 establish the standards and processes for air ambulance registration, including eligibility, initial and renewal applications, terms and transferability of a registration, changes affecting a registration, inspections, enforcement actions, and minimum standards.

After an analysis of the rules in 9 A.A.C. 25, Articles 7 and 8, the Department has determined that the rules are effective or mostly effective and clear, concise, and understandable or mostly clear, concise, and understandable. All but one are consistent with statutes and rules and enforced as written. No

written criticism or analysis of competitiveness for the rules has been received by the Department. Because of the level of stakeholder engagement anticipated during a rulemaking, the Department believes that a rulemaking may take over two years to complete and plans to submit a Notice of Final Rulemaking to the Governor's Regulatory Review Council (Council) by December 31, 2020.

INFORMATION THAT IS IDENTICAL FOR ALL OF THE RULES

1. **Authorization of the rule by existing statute**

The general statutory authority for the rules in 9 A.A.C. 25, Articles 7 and 8 are A.R.S. §§ 36-136(A)(7), 36-136(F), 36-2202(A)(3) and (4), and 36-2209(A)(2).

The specific statutory authority for the rules in 9 A.A.C. 25, Article 7 is A.R.S. § 36-2213.

The specific statutory authority for the rules in 9 A.A.C. 25, Article 8 is A.R.S. § 36-2212.

2. **The purpose of the rule**

The purpose of the rules in 9 A.A.C. 25, Article 7 is to specify requirements for the licensing of air ambulance services.

The purpose of the rules in 9 A.A.C. 25, Article 8 is to specify requirements for the registration of air ambulances.

4. **Analysis of consistency with state and federal statutes and rules**

Except as described for R9-25-704, the rules in 9 A.A.C. 25, Articles 7 and 8 are consistent with state and federal statutes and rules.

5. **Status of enforcement of the rule**

Except as described for R9-25-704, the rules in 9 A.A.C. 25, Articles 7 and 8 are enforced as written without difficulty by the Department.

7. **Summary of the written criticisms of the rule received within the last five years**

The Department has not received any written criticisms of the rules in the past five years.

8. **Economic, small business, and consumer impact comparison**

The rules in 9 A.A.C. 25, Articles 7 and 8 were adopted by final rulemaking, effective April 8, 2006. The rules in R9-25-701, R9-25-704, R9-25-711, R9-25-715, and Table 8.1 were revised by exempt rulemaking in 2013. At the time of the 2006 rulemaking, there were 13 private AASs operating in Arizona with a total of 91 registered air ambulances, 38 fixed-wing and 53 rotor-wing. Of the 13 private AASs, four operated only fixed-wing air ambulances and three only rotor-wing air ambulances, and seven held CAMTS accreditation. As of March 29, 2017, there are 22 licensed AASs operating in Arizona, all of which are private companies. They operate a total of 117 registered air ambulances, 37 fixed-wing and 80 rotor-wing. Of the 22 private AASs, 13 operate only fixed-wing air ambulances and two only rotor-wing air ambulances, and 12 hold CAMTS accreditation.

An economic, small business, and consumer impact statement (EIS) was submitted to the Council as part of the Notice of Final Rulemaking package for the 2006 rulemaking. In the EIS, annual cost/revenues were designated as “minimal” when less than \$1,000.00; “moderate” when

between \$1,000.00 and \$10,000.00; “substantial” when \$10,000.00 or more; and “significant” when meaningful or important, but not readily subject to quantification. The EIS stated that the Department had incurred moderate-to-substantial costs for promulgating the rules for air ambulance service licensing and air ambulance registration and would incur substantial costs for implementing the rules, including moderate-to-substantial costs for conducting inspections. The Department anticipated that the Department would receive a significant benefit from the rules and that licensure would help to ensure the health and safety of patients and enhance consistency in quality of care of AASs.

The Department estimated that the rules would have a significant impact on AASs, which were used to operating without regulation. The Department believed that AASs might incur a minimal-to-moderate increase in premium costs for increased liability insurance, minimal-to-moderate costs for air ambulance annual regulatory fees, minimal costs for participating in an inspection, minimal-to-moderate costs for equipping and supplying an air ambulance, and substantial costs if not already meeting industry standards for staffing missions, including interfacility neonatal missions and interfacility maternal missions, or medical director qualifications. An AAS might also incur substantial costs if the AAS had been using an unpressurized fixed-wing air ambulance. The Department anticipated that AASs would receive a significant benefit from the clarity of the rules and medical director qualifications. The Department also believed that an AAS would receive a substantial benefit from being able to perform an interfacility critical care mission without supplies and equipment with which an air ambulance is required to be equipped, but unnecessary for the patient being transported, if size or weight considerations made it unsafe or impossible for the air ambulance to carry them.

The Department believed that AAS personnel members would receive substantial benefit from mission staffing standards and medical director qualifications. The Department believed that health care providers, health care institution staff members, and EMS providers would receive a significant benefit from requiring an AAS to publicize hours of operation. Members of the rulemaking Task Force were thought to have incurred minimal-to-moderate costs during the rulemaking process and to have received a significant benefit from having had their recommendations included in the rules. The Department estimated that an AAS medical director might incur substantial costs if the AAS medical director’s qualifications did not already meet the industry standards in the rules.

The Department also believed that patients served by air ambulance services (AASs) and their loved ones would receive a significant benefit from AASs complying with the licensing rules and from the Department performing inspections of AASs, and patients served by air ambulance

services (AASs) and their loved ones might receive a substantial benefit from monetary recovery if a patient were harmed by an AAS. The Department anticipated that the general public might receive a substantial benefit from the requirement that liability insurance coverage cover property damage, and that the State of Arizona might receive a substantial benefit from the depositing of air ambulance annual regulatory fees into the general fund. The Department believes the costs and benefits identified in this EIS are generally consistent with the actual costs and benefits of the rules.

As part of the 2013 exempt rulemaking, the Department removed unnecessary definitions from R9-25-701, removed duplicative or unnecessary requirements from and clarified other requirements in R9-25-704, updated the nomenclature for EMCTs, renamed Table 1 in Article 8 to Table 8.1, and corrected cross references. The Department believes these changes caused no additional costs and provided a significant benefit to all stakeholders. As part of the 2013 rulemaking, the Department also added to Table 8.1 a requirement for a blood glucose measuring device and a pulse oximeter to be consistent with the new scope of practice for an EMT. The Department believes that most, if not all, AASs already owned and were using this equipment. For an AAS that did not, the Department estimates that the AAS could have incurred a minimal cost per air ambulance to comply with this requirement. A patient being transported by the AAS and the patient's family and health insurance carrier, and the general public may receive a significant benefit from increased patient safety.

9. Summary of business competitiveness analyses of the rules

The Department did not receive a business competitiveness analysis of the rules in the last five years.

10. Status of the completion of action indicated in the previous five-year-review report

In the 2012 Five-Year-Review Report, the Department stated that the Department planned to address concerns described in the report and to simplify and streamline the requirements in the rules for air ambulance services. The Department planned to amend the rules in Articles 7 and 8 and submit a Notice of Final Rulemaking to the Council by December 31, 2016. In 2013, the Department addressed some of the concerns, as described above in paragraph 8, in a rulemaking amending the rules in 9 A.A.C. 25 to comply with statutory changes made in Laws 2012, Ch. 94, filing a Notice of Exempt Rulemaking by December 31, 2013. The Department has not yet addressed other concerns, as described in this report.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated

persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

The Department has determined that the rules in 9 A.A.C. 25, Articles 7 and 8, except for R9-25-704 and R9-25-710, impose the least burden and costs to persons regulated by the rule, despite the minor improvements that may be made to some of the rules.

12. Analysis of stringency compared to federal laws

Federal laws, including 14 CFR 135 and 14 CFR 298, apply to the regulation by the Federal Aviation Administration of aircraft used as air ambulances. In the rules, the Department requires documentation demonstrating compliance with these requirements, but does not exceed federal law except as required by state statutes. The rules impose requirements specific to “medical equipment, supply, staffing, and safety standards,” as required by A.R.S. § 36-2202(A)(5), and establish “minimum standards for the operation of air ambulance services that are necessary to assure public health and safety,” as required by A.R.S. § 36-2213.

13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with section 41-1037

The rules require the issuance of a specific agency authorization, which is authorized by A.R.S. §§ 36-2213 and 36-2214, so a general permit is not applicable.

14. Proposed course of action

The Department plans to amend the rules in 9 A.A.C. 25, Articles 7 and 8 to address concerns described in this report and make other changes suggested by stakeholders during a rulemaking. Because of the level of stakeholder engagement anticipated during the rulemaking and to minimize the burden on stakeholders while participating in the rulemaking, the Department believes that a rulemaking may take over two years to complete and plans to submit a Notice of Final Rulemaking to the Governor’s Regulatory Review Council (Council) by December 31, 2020.

INFORMATION FOR INDIVIDUAL RULES

ARTICLE 7. AIR AMBULANCE SERVICE LICENSING

R9-25-701. Definitions (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2212, 36-2214, and 36-2215 as additional specific authority.

2. Objective

The objective of the rule is to define terms used in the Article to assist the reader in understanding the requirements of the Article.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable.

R9-25-702. Applicability (A.R.S. §§ 36-2202(A)(4) and 36-2217)

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2217 as additional specific authority.

2. Objective

The objective of the rule is to establish to whom the rules in 9 A.A.C. 25, Articles 7 and 8 do not apply.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable.

R9-25-703. Requirement and Eligibility for a License (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2212, 36-2214, and 36-2215 as additional specific authority.

2. Objective

The objectives of the rule are to:

- a. Prohibit operation of an air ambulance in Arizona without an air ambulance license, and

b. Establish eligibility requirements for air ambulance licensing.

3. **Analysis of effectiveness in achieving the objective**

The rule is effective in achieving its objective.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

R9-25-704. Initial Application and Licensing Process (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)

1. **Authorization of the rule by existing statute**

The rule has A.R.S. §§ 36-2214 and 36-2215 as additional specific authority.

2. **Objective**

The objective of the rule is to establish application requirements and the process for initial air ambulance licensure.

3. **Analysis of effectiveness in achieving the objective**

The rule is effective in achieving its objective.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is not consistent with A.R.S. § 41-1080 since the rule does not require elements in the application that would allow the Department to ensure adherence with the statute. Otherwise, the rule is consistent with state and federal statutes and rules.

5. **Status of enforcement of the rule**

The Department enforces R9-25-704 consistent with requirements in A.R.S. § 41-1080. The rule is otherwise enforced as written without difficulty.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective**

The Department has determined that the rule does not impose the least burden and costs to persons regulated by the rule, due to the lack of notice in the rule of requirements related to A.R.S. § 41-1080.

R9-25-705. Renewal Application and Licensing Process (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2214 and 36-2215 as additional specific authority.

2. Objective

The objective of the rule is to establish application requirements and the process for renewal of air ambulance licensure.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective but could be improved if subsection (C) were removed as unnecessary and duplicative of the requirement in R9-25-704 (A)(16), referenced in subsection (A)(1).

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by replacing the pronoun “its” in subsection (A) with the noun to which the pronoun refers.

R9-25-706. Term and Transferability of License (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, and 41-1092.11)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2214 and 41-1092.11 as additional specific authority.

2. Objective

The objectives of the rule are to establish:

- a. The term of an air ambulance license, and
- b. Requirements related to transfer of an air ambulance license.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by clarifying that the “date of issuance” means the date the initial license was issued and that the “person wanting to transfer an air ambulance service license” refers to the current licensee.

R9-25-707. Changes Affecting a License (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

2. Objective

The objectives of the rule are to:

- a. Establish notification requirements for certain changes affecting a license, and
- b. Specify the Department’s actions in response to two of those notifications.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective but could be improved by increasing the number of working days for some of the changes in subsection (D) within which an air ambulance service has to notify the Department. The effectiveness of the rule could also be improved by removing subsection (E), which is unnecessary and duplicates the requirement in R9-25-706(D).

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by replacing the pronoun “its” with the noun to which the pronoun refers in subsections (B), (C)(2), and (D) and clarifying that the “person wanting to transfer an air ambulance service license” in subsection (E) refers to the current licensee. In addition, the rule would be improved if the term “scope of the mission types provided” were clarified to include both level of care and type of transport.

R9-25-708. Inspections and Investigations (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, and 36-2214)

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2214 as additional specific authority.

2. Objective

The objectives of the rule are to establish requirements related to the inspection of an air ambulance service and the investigation of an alleged violation of rules or statutes.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective but could be improved by removing subsection (E), which is unnecessary and duplicates the requirements in R9-25-704(A)(16) and R9-25-705(C).

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable.

R9-25-709. Enforcement Actions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, 36-2215, 41-1092.03, and 41-1092.11(B))

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2214, 36-2215, 41.1092.03, and 41-1092.11 as additional specific authority.

2. Objective

The objectives of the rule are to establish:

- a. The grounds for the Department to take enforcement action against an air ambulance service,
- b. The types of enforcement action that the Department may take, and

c. The factors the Department will consider in determining whether to take enforcement action.

3. **Analysis of effectiveness in achieving the objective**

The rule is effective in achieving its objective.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable but could be improved if the term “summarily” in subsection (B)(3) were replaced with the term “immediately” as in R9-25-806 (B)(2) and if the pronoun “its” in subsection (B)(3) were replaced with the noun to which the pronoun refers.

R9-25-710. Minimum Standards for Operations (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

2. **Objective**

The objective of the rule is to establish minimum operational standards for an air ambulance service operating in Arizona.

3. **Analysis of effectiveness in achieving the objective**

The rule is mostly effective in achieving its objective but could be improved by including the staffing in the record for each mission required in subsection (A)(8) and requiring that additional information in subsection (A)(8) be submitted to the Department. The rule would also be improved if the requirements currently in R9-25-807(C) were included in the rule since these requirements relate to the operation of a mission under specific circumstances, just as subsections (B) and (D) do, and the report required of a certificate holder under R9-25-807(C)(5) is very similar to the report required in subsection (C) of the rule.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable but could be improved by defining or describing the terms “call number,” “patient reference number,” “publicizes,” and “rescue situation” where the terms are used rather than defining the terms in R9-25-701, and defining the term “run log.” The rule would also be more concise if the reference to A.R.S. § 36-2220 for the definition of “prehospital incident history report” were removed from the rule since the term is now defined in R9-25-101. The rule would also be more understandable if the rule specified in the appropriate subsection of the rule, rather than in R9-25-716, how long and where the records of each mission and a record of a deviation from subsection (A)(5) are kept, and if the pronoun “its” in subsections (A)(2) and (3) were replaced with the noun to which the pronoun refers.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated**

persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

The Department has determined that the rule does not impose the least burden and costs to persons regulated by the rule, because of the items identified in paragraphs 3 and 6.

R9-25-711. Minimum Standards for Mission Staffing (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

2. Objective

The objectives of the rule are to establish:

- a. Minimum standards for mission staffing,
- b. Recordkeeping requirements related to use of single-member medical teams, and
- c. Requirements for personnel records.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective but could be improved by removing the need to establish a hierarchy of qualifications implied by the term “at least the following qualifications” in subsections (A)(1) and (2).

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by clarifying by whom the “written guidelines” specified in subsection (C) were developed and what the term “no other transport team” means in subsection (C)(5). The rule would also be more understandable if the rule specified in subsections (D) and (E), rather than in R9-25-716, how long and where the applicable information is kept.

R9-25-713. Minimum Standards for Training (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

2. Objective

The objective of the rule is to establish minimum training requirements for medical team members and minimum recordkeeping requirements for the trainings.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective but could be improved by updating the training requirements to reflect current operating norms for air ambulances.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by specifying in the rule, rather than in R9-25-716, how long and where the training information is kept.

R9-25-714. Minimum Standards for Communications (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

2. Objective

The objective of the rule is to establish minimum standards for communication capabilities on a mission.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable.

R9-25-715. Minimum Standards for Medical Control (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

2. Objective

The objective of the rule is to establish minimum standards for medical control and quality management of air ambulance services, including qualifications and responsibilities of a medical director and requirements for an air ambulance service quality management program.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by removing the term “as defined in A.R.S. §36-2201” as unnecessary, since the term “physician” is consistently defined in R9-25-101.

R9-25-716. Minimum Standards for Recordkeeping (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

2. Objective

The objective of the rule is to require an air ambulance service to retain required records for a specific period of time and to produce them for review upon the Department’s request.

3. Analysis of effectiveness in achieving the objective

The rule is effective, but it would be easier for a reader to understand requirements in the Article if retention requirements were located in the same Section as record creation and maintenance requirements are located.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable.

R9-25-717. Minimum Standards for an Interfacility Neonatal Mission (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

2. Objective

The objective of the rule is to establish minimum standards for an interfacility neonatal mission, including:

- a. Supplemental medical team member proficiency requirements,
- b. Mission equipment and supply requirements,
- c. Requirements for a physician providing on-line medical direction or on-line medical guidance, and
- d. Requirements for verification and documentation of medical team member proficiencies.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved if the term “pediatric emergency care” were defined or described and if the cross-reference to “Table 1 of Article 8 of this Chapter” were corrected to refer to Table 8.1.

R9-25-718. Minimum Standards for an Interfacility Maternal Mission (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

2. Objective

The objective of the rule is to establish minimum standards for an interfacility maternal mission, including:

- a. Supplemental medical team member proficiency requirements,
- b. Mission equipment and supply requirements,
- c. Requirements for a physician providing on-line medical direction or on-line medical guidance, and
- d. Requirements for verification and documentation of medical team member proficiencies.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved if the term “advanced emergency cardiac life support” were defined or described and if the cross-reference to “Table 1 of Article 8 of this Chapter” were corrected to refer to Table 8.1.

ARTICLE 8. AIR AMBULANCE REGISTRATION

R9-25-801. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2212)

2. Objective

The objective of the rule is to define terms used in the Article to assist the reader in understanding the requirements of the Article.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by removing the term “drug,” which is already defined in R9-25-101 and not used in the Article.

R9-25-802. Requirement, Eligibility, and Application for an Initial or Renewal Certificate of Registration for an Air Ambulance (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4))

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2202(A)(5), 36-2213, 36-2214, and 36-2240(4) as additional specific authority.

2. Objective

The objectives of the rule are to:

- a. Require an air ambulance to be registered;
- b. Establish eligibility requirements, application requirements, and the application process for air ambulance registration; and
- c. Establish the grounds for denial of an application for registration.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective in achieving its objective but could be improved if information about the owner/operator of the air ambulance, if different from the applicant, were provided on the application. The effectiveness of the rule would also be improved if subsection (A) were removed as unnecessary and duplicative of the requirement in R9-25-703(A) and if subsection (C)(12) allowed payment by credit card. The rule would also be improved if the applicant was required to include on an application the license number for the applicant’s air ambulance service to better tie an air ambulance to the air ambulance service responsible for ensuring compliance with the requirements in 9 A.A.C. 25, Article 8.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by amending the use of the term “to obtain an initial or renewal certificate of registration” to clarify that submitting an application does not guarantee that an applicant will obtain a certificate of registration. In addition, the rule would be more concise if the information about who is required to sign and attest on an application were removed because the information is now in R9-25-102 and applies to all applications in 9 A.A.C. 25.

R9-25-803. Term and Transferability of Certificate of Registration (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2202(A)(5) and 41-1092.11 as additional specific authority.

2. Objective

The objective of the rule is to establish the term and non-transferability of air ambulance registration.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable.

R9-25-804. Changes Affecting Registration (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), and 36-2212)

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2202(A)(5) as additional specific authority.

2. Objective

The objectives of the rule are to:

- a. Establish notification requirements for certain changes affecting registration, and
- b. Specify the Department’s actions in response to two of those notifications.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by amending subsection (B) to make clear that it is the certificate holder who has the “desire to relinquish the certificate of registration” and by replacing the pronoun “its” in subsection (D) with the noun to which the pronoun refers.

R9-25-805. Inspections (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 36-2232(A)(11))

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2202(A)(5) and 36-2232(A)(11) as additional specific authority.

2. Objective

The objective of the rule is to establish requirements related to the inspection of an air ambulance.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable.

R9-25-806. Enforcement Actions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2212, 36-2234(L), 41-1092.03, and 41-1092.11(B))

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2234(L), 41-1092.03, and 41-1092.11(B) as additional specific authority.

2. Objective

The objectives of the rule are to establish:

- a. The grounds for the Department to take enforcement action against an air ambulance registration,
- b. The types of enforcement action that the Department may take, and
- c. The factors the Department will consider in determining whether to take enforcement action.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective but could be improved by combining elements of the rule into R9-25-709, under which enforcement action may be taken against an air ambulance service for using an air ambulance that does not meet the requirements in 9 A.A.C. 25, Article 8, and repealing the rule.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by replacing the pronoun “its” in subsection (B)(2) with the noun to which the pronoun refers.

R9-25-807. Minimum Standards for an Air Ambulance (A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2202(A)(3) and (5) as additional specific authority.

2. Objective

The objective of the rule is to establish minimum physical capability, configuration, and equipment and supply standards for an air ambulance.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective but could be improved if the requirements currently in subsection (C) of the rule were included in R9-25-710, which specifies requirements for the operation of an air ambulance service since this subsection specifies requirements for how an air ambulance is used, rather than requirements for the air ambulance itself.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by clarifying the undefined terms “head strike envelope,” “flight crew,” and “density altitude.” The rule could also be improved by replacing the pronoun “its” in subsection (C)(1) with the noun to which the pronoun refers and replacing the reference to Table 1 with the reference to Table 8.1, the title of which was changed as part of the 2013 exempt rulemaking.

Table 8.1. Minimum Equipment and Supplies Required on Air Ambulances, by Mission Level and Aircraft Type (A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2202(A)(3) and (5) as additional specific authority.

2. Objective

The objective of the rule is to specify the minimum equipment and supplies required on fixed-wing and rotor-wing aircraft and on different mission levels.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable.

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ARTICLE 7. AIR AMBULANCE SERVICE LICENSING

R9-25-701. Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article and in Article 8 of this Chapter, unless otherwise specified:

1. “Air ambulance” means an aircraft that is an “ambulance” as defined in A.R.S. § 36-2201.
2. “Air ambulance service” means an ambulance service that operates an air ambulance.
3. “Base location” means a physical location at which a person houses an air ambulance or equipment and supplies used for the operation of an air ambulance service or provides administrative or other support for the operation of an air ambulance service.
4. “Business organization” means an entity such as an association, cooperative, corporation, limited liability company, or partnership.
5. “Call number” means a unique identifier used by an air ambulance service to identify a specific mission.
6. “CAMTS” means the Commission on Accreditation of Medical Transport Systems, formerly known as the Commission on Accreditation of Air Medical Services.
7. “Change of ownership” means a transfer of controlling legal or controlling equitable interest and authority in an air ambulance service.
8. “Critical care” means pertaining to a patient whose condition requires care commensurate with the scope of practice of a physician or registered nurse.
9. “Estimated time of arrival” means the number of minutes from the time that an air ambulance service agrees to perform a mission to the time that an air ambulance arrives at the scene.
10. “Holds itself out” means advertises through print media, broadcast media, the Internet, or other means.
11. “Interfacility” means between two health care institutions.
12. “Licensed respiratory care practitioner” has the same meaning as in A.R.S. § 32-3501.
13. “Maternal” means pertaining to a woman whose pregnancy is considered by a physician to be high risk, who is in need of critical care services related to the pregnancy, and who is being transferred to a medical facility that has the specialized perinatal and neonatal resources and capabilities necessary to provide an appropriate level of care.
14. “Medical team” means personnel whose main function on a mission is the medical care of the patient being transported.
15. “Mission” means a transport job that involves an air ambulance service’s sending an air ambulance to a patient’s location to provide transport of the patient from one location to another, whether or not transport of the patient is actually provided.
16. “Neonatal” means pertaining to an infant who is 28 days of age or younger and who is in need of critical care services.
17. “On-line medical guidance” means emergency medical services direction or information provided to a non-EMCT medical team member by a physician through two-way voice communication.
18. “Operate an air ambulance in this state” means:
 - a. Transporting a patient via air ambulance from a location in this state to another location in this state,
 - b. Operating an air ambulance from a base location in this state, or
 - c. Transporting a patient via air ambulance from a location in this state to a location outside of this state more than once per month.
19. “Owner” means a person that holds a controlling legal or equitable interest and authority in a business enterprise.
20. “Patient reference number” means a unique identifier used by an air ambulance service to identify an individual patient.
21. “Personnel” means individuals who work for an air ambulance service, with or without compensation, whether as employees, contractors, or volunteers.
22. “Premises” means each physical location of air ambulance service operations and includes all equipment and records at each location.
23. “Proficiency in neonatal resuscitation” means current and valid certification in neonatal resuscitation obtained through completing a nationally recognized training program such as the American Academy of Pediatrics and American Heart Association NRP: Neonatal Resuscitation Program.
24. “Publicizes” means makes a good faith effort to communicate information to the general public through print media, broadcast media, the Internet, or other means.
25. “Regularly” means at recurring, fixed, or uniform intervals.
26. “Rescue situation” means an incident in which:
 - a. An individual’s life, limb, or health is imminently threatened; and
 - b. The threat may be reduced or eliminated by removing the individual from the situation and providing medical services.
27. “Subspecialization” means:
 - a. For a physician board certified by a specialty board approved by the American Board of Medical Specialties, subspecialty certification;
 - b. For a physician board certified by a specialty board approved by the American Osteopathic Association, attainment of either a certification of special qualifications or a certification of added qualifications; and
 - c. For a physician who has completed an accredited residency program, completion of at least one year of training pertaining to the specified area of medicine.
28. “Two-way voice communication” means that two individuals are able to convey information back and forth to each other orally, either directly or through a third-party relay.
29. “Valid” means that a license, certification, or other form of authorization is in full force and effect and not suspended.

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30. “Working day” means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-702. Applicability (A.R.S. §§ 36-2202(A)(4) and 36-2217)

This Article and Article 8 of this Chapter do not apply to persons and vehicles exempted from the provisions of A.R.S. Title 36, Chapter 21.1 as provided in A.R.S. § 36-2217(A).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-703. Requirement and Eligibility for a License (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)

- A. A person shall not operate an air ambulance in this state unless the person has a current and valid air ambulance service license and, except as provided in A.R.S. § 36-2212(C), a current and valid certificate of registration for the air ambulance as required under Article 8 of this Chapter.
- B. To be eligible to obtain an air ambulance service license, an applicant shall:
1. Hold current and valid Registration and Exemption under 14 CFR 298, as evidenced by a current and valid OST Form 4507 showing the effective date of registration;
 2. Hold the following issued by the Federal Aviation Administration:
 - a. A current and valid Air Carrier Certificate authorizing common carriage under 14 CFR 135;
 - b. If operating a rotor-wing air ambulance, current and valid Operations Specifications authorizing aeromedical helicopter operations;
 - c. If operating a fixed-wing air ambulance, current and valid Operations Specifications authorizing airplane air ambulance operations;
 - d. A current and valid Certificate of Registration for each air ambulance to be operated; and
 - e. A current and valid Airworthiness Certificate for each air ambulance to be operated;
 3. Have applied for a certificate of registration, issued by the Department under Article 8 of this Chapter, for each air ambulance to be operated by the air ambulance service;
 4. Hold a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4, for each air ambulance to be operated by the air ambulance service;
 5. Have current and valid liability insurance coverage for the air ambulance service that complies with A.R.S. § 36-2215 and that has at least the following maximum liability limits:
 - a. \$1 million for injuries to or death of any one person arising out of any one incident or accident;
 - b. \$3 million for injuries to or death of more than one person in any one incident or accident; and
 - c. \$500,000 for damage to property arising from any one incident or accident;
 6. Have current and valid malpractice insurance coverage for the air ambulance service that complies with A.R.S. § 36-2215 and that has a maximum liability limit of at least \$1 million per occurrence; and
 7. Comply with all applicable requirements of this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- C. To maintain eligibility for an air ambulance service license, an air ambulance service shall meet the requirements of subsections (B)(1)-(2) and (4)-(7) and hold a current and valid certificate of registration, issued by the Department under Article 8 of this Chapter, for each air ambulance operated by the air ambulance service.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-704. Initial Application and Licensing Process (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)

- A. An applicant for an initial license shall submit an application to the Department, in a Department-provided format, including:
1. The applicant’s name; mailing address; e-mail address; fax number, if any; and telephone number;
 2. Each business name to be used for the air ambulance service;
 3. The physical and mailing addresses to be used for the air ambulance service, if different from the applicant’s mailing address;
 4. The name, title, address, e-mail address, and telephone number of the applicant’s statutory agent or the individual designated by the applicant to accept service of process and subpoenas for the air ambulance service;
 5. If the applicant is a business organization:
 - a. The type of business organization;
 - b. The following information about the individual who is to serve as the primary contact for information regarding the application:
 - i. Name;
 - ii. Address;
 - iii. E-mail address;
 - iv. Telephone number; and

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- v. Fax number, if any;
 - c. The name, title, and address of each officer and board member or trustee; and
 - d. A copy of the business organization’s articles of incorporation, articles of organization, or partnership or joint venture documents, if applicable;
6. The name and Arizona license number for the physician who is to serve as the administrative medical director for the air ambulance service;
 7. The intended hours of operation for the air ambulance service;
 8. The intended schedule of rates for the air ambulance service;
 9. Which of the following mission types is to be provided:
 - a. Emergency medical services transports,
 - b. Interfacility transports,
 - c. Interfacility maternal transports, and
 - d. Interfacility neonatal transports;
 10. The signature of the applicant and the date signed;
 11. A copy of a current and valid OST Form 4507 showing the effective date of Federal Aviation Administration registration and exemption under 14 CFR 298;
 12. A copy of the following issued by the Federal Aviation Administration:
 - a. A current and valid Air Carrier Certificate authorizing common carriage under 14 CFR 135;
 - b. If intending to operate a rotor-wing air ambulance, current and valid Operations Specifications authorizing aeromedical helicopter operations;
 - c. If intending to operate a fixed-wing air ambulance, current and valid Operations Specifications authorizing airplane air ambulance operations;
 - d. A current and valid Certificate of Registration for each air ambulance to be operated; and
 - e. A current and valid Airworthiness Certificate for each air ambulance to be operated;
 13. For each air ambulance to be operated for the air ambulance service:
 - a. An application for registration that includes all of the information and items required under R9-25-802(C); and
 - b. A copy of a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4;
 14. A certificate of insurance establishing that the applicant has current and valid liability insurance coverage for the air ambulance service as required under R9-25-703(B)(5);
 15. A certificate of insurance establishing that the applicant has current and valid malpractice insurance coverage for the air ambulance service as required under R9-25-703(B)(6);
 16. If the applicant holds current CAMTS accreditation for the air ambulance service, a copy of the current CAMTS accreditation report;
 17. Attestation that the applicant will comply with all applicable requirements in this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1; and
 18. Attestation that the information provided in the application, including the information in the documents accompanying the application form, is accurate and complete.
- B.** Unless an applicant establishes that it holds current CAMTS accreditation as provided in subsection (A)(16) or is applying for an initial license because of a change of ownership as described in R9-25-706(D), the Department shall conduct an inspection, as required under A.R.S. § 36-2214(B) and R9-25-708, during the substantive review period for the application for an initial license.
- C.** The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- D.** The Department may deny an application if an applicant:
1. Fails to meet the eligibility requirements of R9-25-703(B);
 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter;
 4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3), as required under R9-25-1201(D), and requests a denial as permitted under R9-25-1201(E).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-705. Renewal Application and Licensing Process (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)

- A.** Before the expiration date of its current license, an air ambulance service shall submit to the Department a renewal application completed using a Department-provided form and including:
1. The information and items listed in R9-25-704(A)(1)-(11), (12)(b), and (13)-(18); and
 2. For each air ambulance operated or to be operated by the air ambulance service:
 - a. A copy of a current and valid certificate of registration issued by the Department under Article 8 of this Chapter; or
 - b. An application for registration that includes all of the information and items required under R9-25-802(C).

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- B. Unless an air ambulance service establishes that it holds current CAMTS accreditation as provided in subsection (C), the Department shall conduct an inspection, as required under A.R.S. § 36-2214(B) and R9-25-708, during the substantive review period for the renewal application.
- C. To establish current CAMTS accreditation, an air ambulance service shall submit to the Department, as part of the application submitted under subsection (A), a copy of the air ambulance service's current CAMTS accreditation report.
- D. The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- E. The Department may deny an application if an applicant:
 - 1. Fails to meet the eligibility requirements of R9-25-703(C);
 - 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 - 3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter;
 - 4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 - 5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3), as required under R9-25-1201(D), and requests a denial as permitted under R9-25-1201(E).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-706. Term and Transferability of License (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, and 41-1092.11)

- A. The Department shall issue an initial license:
 - 1. When based on current CAMTS accreditation, with a term beginning on the date of issuance and ending on the expiration date of the CAMTS accreditation upon which licensure is based; and
 - 2. When based on Department inspection, with a term beginning on the date of issuance and ending three years later.
- B. The Department shall issue a renewal license with a term beginning on the day after the expiration date shown on the previous license and ending:
 - 1. When based on current CAMTS accreditation, on the expiration date of the CAMTS accreditation upon which licensure is based; and
 - 2. When based on Department inspection, three years after the effective date.
- C. If an applicant submits an application for renewal as described in R9-25-705 before the expiration date of the current license, the current license does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D. A person wanting to transfer an air ambulance service license shall submit to the Department before the anticipated change of ownership:
 - 1. A letter that contains:
 - a. A request that the air ambulance service license be transferred,
 - b. The name and license number of the currently licensed air ambulance service, and
 - c. The name of the person to whom the air ambulance service license is to be transferred; and
 - 2. An application that complies with R9-25-704(A) completed by the person to whom the license is to be transferred.
- E. A new owner shall not operate an air ambulance in this state until the Department has transferred an air ambulance service license to the new owner.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-707. Changes Affecting a License (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

- A. At least 30 days before the date of a change in an air ambulance service's name, the air ambulance service shall send the Department written notice of the name change.
- B. At least 90 days before an air ambulance service ceases to operate, the air ambulance service shall send the Department written notice of the intention to cease operating, effective on a specific date, and the desire to relinquish its license as of that date.
- C. Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
 - 1. For a notice described in subsection (A), issue an amended license that incorporates the name change but retains the expiration date of the current license; and
 - 2. For a notice described in subsection (B), send the air ambulance service written confirmation of the voluntary relinquishment of its license, with an effective date consistent with the written notice.
- D. An air ambulance service shall notify the Department in writing within one working day after:
 - 1. A change in its eligibility for licensure under R9-25-703(B) or (C);
 - 2. A change in the business organization information most recently submitted to the Department under R9-25-704(A)(5) or R9-25-705(A);
 - 3. A change in its CAMTS accreditation status, including a copy of its new CAMTS accreditation report, if applicable;
 - 4. A change in its hours of operation or schedule of rates; or
 - 5. A change in the scope of the mission types provided.
- E. Before the date of an anticipated change of ownership, a person wanting to transfer an air ambulance service license shall submit to the Department the documents required under R9-25-706(D).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

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R9-25-708. Inspections and Investigations (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, and 36-2214)

- A. Except as provided in subsections (D) and (F), the Department shall inspect an air ambulance service before issuing an initial or renewal license, as required under A.R.S. § 36-2214(B), and as often as necessary to determine compliance with this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- B. A Department inspection may include the premises and each air ambulance operated or to be operated for the air ambulance service.
- C. If the Department receives written or verbal information alleging a violation of this Article, Article 2 or 8 of this Chapter, or A.R.S. Title 36, Chapter 21.1, the Department shall conduct an investigation.
 - 1. The Department may conduct an inspection as part of an investigation.
 - 2. An air ambulance service shall allow the Department to inspect the premises and each air ambulance and to interview personnel as part of an investigation.
- D. As required under A.R.S. § 36-2213(8), the Department shall accept proof of current CAMTS accreditation in lieu of the licensing inspections otherwise required before initial and renewal licensure under subsection (A) and A.R.S. § 36-2214(B).
- E. To establish current CAMTS accreditation, an applicant or air ambulance service shall submit to the Department a copy of its current CAMTS accreditation report as required under R9-25-704(C), R9-25-705(C), or R9-25-707(D).
- F. When an application for an air ambulance service license is submitted along with a transfer request due to a change of ownership, the Department shall determine whether an inspection is necessary based upon the potential impact to public health, safety, and welfare.
- G. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-709. Enforcement Actions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, 36-2215, 41-1092.03, and 41-1092.11(B))

- A. The Department may take an action listed in subsection (B) against an air ambulance service that:
 - 1. Fails to meet the eligibility requirements of R9-25-703(B) or (C);
 - 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 - 3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter; or
 - 4. Knowingly or negligently provides false documentation or false or misleading information to the Department.
- B. The Department may take the following actions against an air ambulance service:
 - 1. Except as provided in subsection (B)(3), after notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, suspend the air ambulance service license;
 - 2. After notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, revoke the air ambulance service license; and
 - 3. If the Department determines that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, summarily suspend the air ambulance service license pending proceedings for revocation or other action, as permitted under A.R.S. § 41-1092.11(B).
- C. In determining whether to take action under subsection (B), the Department shall consider:
 - 1. The severity of each violation relative to public health and safety;
 - 2. The number of violations relative to the transport volume of the air ambulance service;
 - 3. The nature and circumstances of each violation;
 - 4. Whether each violation was corrected and, if so, the manner of correction; and
 - 5. The duration of each violation.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-710. Minimum Standards for Operations (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A. An air ambulance service shall ensure that:
 - 1. The air ambulance service maintains eligibility for licensure as required under R9-25-703(C);
 - 2. The air ambulance service publicizes its hours of operation;
 - 3. The air ambulance service makes its schedule of rates available to any individual upon request and, if requested, in writing;
 - 4. The air ambulance service provides an accurate estimated time of arrival to the person requesting transport at the time that transport is requested and provides an amended estimated time of arrival to the person requesting transport if the estimated time of arrival changes;
 - 5. The air ambulance service transports only patients for whom it has the resources to provide appropriate medical care, unless subsection (B) or (D) applies;
 - 6. The air ambulance service does not perform interfacility transport of a patient unless:
 - a. The transport is requested by:
 - i. A physician; or
 - ii. A qualified medical person, as determined by the sending health care institution's bylaws or policies, after consultation with and approval by a physician; and
 - b. The destination health care institution confirms that a bed is available for the patient;
 - 7. The air ambulance service creates a prehospital incident history report, as defined in A.R.S. § 36-2220, for each patient;
 - 8. The air ambulance service creates a record for each mission that includes:

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- a. Mission date;
 - b. Mission level—basic life support, advanced life support, or critical care;
 - c. Mission type—emergency medical services transport, interfacility transport, interfacility maternal transport, interfacility neonatal transport, or convalescent transport;
 - d. Aircraft type—fixed-wing aircraft or rotor-wing aircraft;
 - e. Name of the person requesting the transport;
 - f. Time of receipt of the transport request;
 - g. Departure time to the patient’s location;
 - h. Address of the patient’s location;
 - i. Arrival time at the patient’s location;
 - j. Departure time to the destination health care institution;
 - k. Name and address of the destination health care institution;
 - l. Arrival time at the destination health care institution;
 - m. Patient reference number or call number; and
 - n. Aircraft tail number for the air ambulance used on the mission; and
9. The air ambulance service submits to the Department by the 15th day of each month, either in an electronic format approved by the Department or in hard copy, a run log of the previous month’s missions that includes the information required under subsections (A)(8)(a)-(d), (f), (g), (i), (j), (l), and (m) in a cumulative tabular format.
- B.** In a rescue situation, when no other practical means of transport, including another air ambulance service, is available, an air ambulance service may deviate from subsection (A)(5) to the extent necessary to meet the rescue situation.
- C.** An air ambulance service that completes a mission under subsection (B) shall create a record within five working days after the mission, including the information required under subsection (A)(8), the manner in which the air ambulance service deviated from subsection (A)(5), and the justification for operating under subsection (B).
- D.** An air ambulance service may provide interfacility transport of a patient for whom it does not have the resources to provide appropriate medical care if the sending health care institution provides medically appropriate life support measures, staff, and equipment to sustain the patient during the interfacility transport.
- E.** An air ambulance service shall ensure that each staff member provided by a sending health care institution under subsection (D) has completed training in the subject areas listed in R9-25-713(A) before serving on a mission.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-711. Minimum Standards for Mission Staffing (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A.** An air ambulance service shall ensure that, except as provided in subsection (B):
1. Each critical care mission is staffed by a medical team of at least two individuals with at least the following qualifications:
 - a. A physician or registered nurse, and
 - b. A Paramedic or licensed respiratory care practitioner;
 2. Each advanced life support mission is staffed by a medical team of at least two individuals with at least the following qualifications:
 - a. A Paramedic, and
 - b. Another Paramedic or a licensed respiratory care practitioner; and
 3. Each basic life support mission is staffed by a medical team of at least two individuals, each of whom has at least the qualifications of an EMT.
- B.** If the pilot on a mission using a rotor-wing air ambulance determines, in accordance with the air ambulance service’s written guidelines required under subsection (C), that the weight of a second medical team member could potentially compromise the performance of the rotor-wing air ambulance and the safety of the mission, and the use of a single-member medical team is consistent with the on-line medical direction or on-line medical guidance received as required under subsection (C), an air ambulance service may use a single-member medical team consisting of an individual with at least the following qualification:
1. For a critical care mission, a physician or registered nurse;
 2. For an advanced life support mission, a Paramedic; and
 3. For a basic life support mission, an EMT.
- C.** An air ambulance service shall ensure that:
1. Each air ambulance service rotor-wing pilot is provided written guidelines to use in determining when the weight of a second medical team member could potentially compromise the performance of a rotor-wing air ambulance and the safety of a mission, including the conditions of density altitude and weight that warrant the use of a single-member medical team;
 2. The following are done, without delay, after an air ambulance service rotor-wing pilot determines that the weight of a second medical team member could potentially compromise the performance of a rotor-wing air ambulance and the safety of a mission:
 - a. The pilot communicates that information to the medical team,
 - b. The medical team obtains on-line medical direction or on-line medical guidance regarding the use of a single-member medical team, and
 - c. The medical team proceeds in compliance with the on-line medical direction or on-line medical guidance;
 3. A single-member medical team has the knowledge and medical equipment to perform one-person cardiopulmonary resuscitation;

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4. The air ambulance service has a quality management process to review regularly the patient care provided by each single-member medical team, including consideration of each patient's status upon arrival at the destination health care institution; and
 5. A single-member medical team is used only when no other transport team is available that would be more appropriate for delivering the level of care that a patient requires.
- D.** An air ambulance service that uses a single-member medical team as authorized under subsection (B) shall create a record within five working days after the mission, including the information required under R9-25-710(A)(8), the name and qualifications of the individual comprising the single-member medical team, and the justification for using a single-member medical team.
- E.** An air ambulance service shall create and maintain for each personnel member a file containing documentation of the personnel member's qualifications, including, as applicable, licenses, certifications, and training records.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-712. Expired

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

R9-25-713. Minimum Standards for Training (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

- A.** An air ambulance service shall ensure that each medical team member completes training in the following subjects before serving on a mission:
1. Aviation terminology;
 2. Physiological aspects of flight;
 3. Patient loading and unloading;
 4. Safety in and around the aircraft;
 5. In-flight communications;
 6. Use, removal, replacement, and storage of the medical equipment installed on the aircraft;
 7. In-flight emergency procedures;
 8. Emergency landing procedures; and
 9. Emergency evacuation procedures.
- B.** An air ambulance service shall document each medical team member's completion of the training required under subsection (A), including the name of the medical team member, each training component completed, and the date of completion.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-714. Minimum Standards for Communications (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

An air ambulance service shall ensure that, while on a mission, two-way voice communication is available:

1. Between and among personnel on the air ambulance, including the pilot; and
2. Between personnel on the air ambulance and the following persons on the ground:
 - a. Personnel;
 - b. Physicians providing on-line medical direction or on-line medical guidance to medical team members; and
 - c. For a rotor-wing air ambulance mission:
 - i. Emergency medical services providers, and
 - ii. Law enforcement agencies.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-715. Minimum Standards for Medical Control (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A.** An air ambulance service shall ensure that:
1. The air ambulance service has a medical director who:
 - a. Meets the qualifications in subsection (B);
 - b. Supervises and evaluates the quality of medical care provided by medical team members;
 - c. Ensures the competency and current qualifications of all medical team members;
 - d. Ensures that each EMCT medical team member receives medical direction as required under Article 2 of this Chapter;
 - e. Ensures that each non-EMCT medical team member receives medical guidance through:
 - i. Written treatment protocols; and
 - ii. On-line medical guidance provided by:
 - (1) The medical director;
 - (2) Another physician designated by the medical director; or
 - (3) If the medical guidance needed exceeds the medical director's area of expertise, a consulting specialty physician;

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and

- f. Approves, ensures implementation of, and annually reviews treatment protocols to be followed by medical team members;
 2. The air ambulance service has a quality management program through which:
 - a. Data related to patient care and transport services provided and patient status upon arrival at destination are:
 - i. Collected continuously; and
 - ii. Examined regularly, on at least a quarterly basis; and
 - b. Appropriate corrective action is taken when concerns are identified; and
 3. The air ambulance service documents each concern identified through the quality management program and the corrective action taken to resolve each concern and provides this information, along with the supporting data, to the Department upon request.
- B.** A medical director shall:
1. Be a physician, as defined in A.R.S. § 36-2201; and
 2. Comply with one of the following:
 - a. If the air ambulance service provides emergency medical services transports, meet the qualifications of R9-25-201(A)(1); or
 - b. If the air ambulance service does not provide emergency medical services transports, meet the qualifications of R9-25-201(A)(1) or one of the following:
 - i. If the air ambulance service provides only interfacility maternal missions, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Obstetrics and gynecology, with subspecialization in critical care medicine or maternal and fetal medicine; or
 - (2) Pediatrics, with subspecialization in neonatal-perinatal medicine;
 - ii. If the air ambulance service provides only interfacility neonatal missions, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Obstetrics and gynecology, with subspecialization in maternal and fetal medicine; or
 - (2) Pediatrics, with subspecialization in neonatal-perinatal medicine, neonatology, pediatric critical care medicine, or pediatric intensive care; or
 - iii. If neither subsection (B)(2)(b)(i) or (ii) applies, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Anesthesiology, with subspecialization in critical care medicine;
 - (2) Internal medicine, with subspecialization in critical care medicine;
 - (3) If the air ambulance service transports only pediatric patients, pediatrics, with subspecialization in pediatric critical care medicine or pediatric emergency medicine; or
 - (4) If the air ambulance service transports only surgical patients, surgery, with subspecialization in surgical critical care.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-716. Minimum Standards for Recordkeeping (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

An air ambulance service shall retain each document required to be created or maintained under this Article or Article 2 or 8 of this Chapter for at least three years after the last event recorded in the document and shall produce each document for Department review upon request.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-717. Minimum Standards for an Interfacility Neonatal Mission (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

An air ambulance service shall ensure that:

1. Each interfacility neonatal mission is staffed by a medical team that complies with the requirements for a critical care mission medical team in R9-25-711(A)(1) and that has the following additional qualifications:
 - a. Proficiency in pediatric emergency care, as defined in R9-25-101; and
 - b. Proficiency in neonatal resuscitation and stabilization of the neonatal patient;
2. Each interfacility neonatal mission is conducted using an air ambulance that has the equipment and supplies required for a critical care mission in Table 1 of Article 8 of this Chapter and the following:
 - a. A transport incubator with:
 - i. Battery and inverter capabilities,
 - ii. An infant safety restraint system, and
 - iii. An integrated neonatal-capable pressure ventilator with oxygen-air supply and blender;
 - b. An invasive automatic blood pressure monitor;
 - c. A neonatal monitor or monitors with heart rate, respiratory rate, temperature, non-invasive blood pressure, and pulse oximetry capabilities;
 - d. Neonatal-specific drug concentrations and doses;
 - e. Umbilical catheter insertion equipment and supplies;
 - f. Thoracostomy supplies;
 - g. Neonatal resuscitation equipment and supplies;

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- h. A neonatal size cuff (size 2, 3, or 4) for use with an automatic blood pressure monitor; and
- i. A neonatal probe for use with a pulse oximeter;
- 3. On-line medical direction or on-line medical guidance provided to an interfacility neonatal mission medical team member is provided by a physician who meets the qualifications of R9-25-715(B)(2)(b)(ii); and
- 4. An individual does not serve on an interfacility neonatal mission medical team unless the air ambulance service's medical director has verified and attested in writing to the individual's having the proficiencies described in subsections (1)(a) and (b).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-718. Minimum Standards for an Interfacility Maternal Mission (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A. This Section applies to an air ambulance service that holds itself out as providing interfacility maternal missions.
- B. An air ambulance service shall ensure that:
 - 1. Each interfacility maternal mission is staffed by a medical team that complies with the requirements for a critical care mission medical team in R9-25-711(A)(1) and that has the following additional qualifications:
 - a. Proficiency in advanced emergency cardiac life support, as defined in R9-25-101;
 - b. Proficiency in neonatal resuscitation; and
 - c. Proficiency in stabilization and transport of the maternal patient;
 - 2. Each interfacility maternal mission is conducted using an air ambulance that has the equipment and supplies required for a critical care mission in Table 1 of Article 8 of this Chapter and the following:
 - a. A Doppler fetal heart monitor;
 - b. Unless use is not indicated for the patient as determined through on-line medical direction or on-line medical guidance provided as described in subsection (B)(3), an external fetal heart and tocographic monitor with printer capability;
 - c. Tocolytic and anti-hypertensive medications;
 - d. Advanced emergency cardiac life support equipment and supplies; and
 - e. Neonatal resuscitation equipment and supplies;
 - 3. On-line medical direction or on-line medical guidance provided to an interfacility maternal mission medical team member is provided by a physician who meets the qualifications of R9-25-715(B)(2)(b)(i); and
 - 4. An individual does not serve on an interfacility maternal mission medical team unless the air ambulance service's medical director has verified and attested in writing to the individual's having the proficiencies described in subsections (B)(1)(a), (b), and (c).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

ARTICLE 8. AIR AMBULANCE REGISTRATION

Article 8, consisting of R9-25-801 through R9-25-808, recodified to Article 5 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Editor's Note: Article 8, consisting of Sections R9-25-801 through R9-25-803 and Exhibits, was recodified from A.A.C. R9-13-1501 through R9-13-1503. These recodified Sections were originally filed under an exemption from A.R.S. Title 41, Chapter 6. Refer to the historical notes in 9 A.A.C. 13 for adoption dates (Supp. 98-1).

Article 8, consisting of Section R9-25-805 and Exhibits 1 through 3, was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; and the Department was not required to hold public hearings on this Section. Under A.R.S. § 36-2205(D) a person may petition the Director to amend an adopted protocol pursuant to A.R.S. § 41-1033 (Supp. 97-2).

R9-25-801. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2212)

In addition to the definitions in R9-25-701, the following definitions apply in this Article, unless otherwise specified:

- 1. "Certificate holder" means a person who holds a current and valid certificate of registration for an air ambulance.
- 2. "Drug" has the same meaning as in A.R.S. § 32-1901.

Historical Note

R9-25-801 recodified from A.A.C. R9-13-1501 (Supp. 98-1). Amended by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-501 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-802. Requirement, Eligibility, and Application for an Initial or Renewal Certificate of Registration for an Air Ambulance (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4))

- A. A person shall not operate an air ambulance in this state unless the person has a current and valid air ambulance service license as required under Article 7 of this Chapter and, except as provided in A.R.S. § 36-2212(C), a current and valid certificate of registration for the air ambulance as required under this Article.
- B. To be eligible to obtain a certificate of registration for an air ambulance, an applicant shall:

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1. Hold a current and valid air ambulance service license issued under Article 7 of this Chapter;
 2. Hold the following issued by the Federal Aviation Administration for the air ambulance:
 - a. A current and valid Certificate of Registration, and
 - b. A current and valid Airworthiness Certificate;
 3. Hold a current and valid registration for the air ambulance, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4; and
 4. Comply with all applicable requirements of this Article, Articles 2 and 7 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- C.** To obtain an initial or renewal certificate of registration for an air ambulance, an applicant shall submit to the Department an application completed using a Department-provided form and including:
1. The applicant's name, mailing address, fax number, and telephone number;
 2. All other business names used by the applicant;
 3. The applicant's physical business address, if different from the mailing address;
 4. The following information about the air ambulance for which registration is sought:
 - a. Each mission level for which the air ambulance will be used:
 - i. Basic life support,
 - ii. Advanced life support, or
 - iii. Critical care;
 - b. Whether a fixed-wing or rotor-wing aircraft;
 - c. Number of engines;
 - d. Manufacturer name;
 - e. Model name;
 - f. Year manufactured;
 - g. Serial number;
 - h. Aircraft tail number;
 - i. Aircraft colors, including fuselage, stripe, and lettering; and
 - j. A description of any insignia, monogram, or other distinguishing characteristics of the aircraft's appearance;
 5. A copy of the following issued to the applicant, for the air ambulance, by the Federal Aviation Administration:
 - a. A current and valid Certificate of Registration, and
 - b. A current and valid Airworthiness Certificate;
 6. A copy of a current and valid registration issued to the applicant, for the air ambulance, by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4;
 7. The location in Arizona at which the air ambulance will be available for inspection;
 8. The name and telephone number of the individual to contact to arrange for inspection, if the inspection is preannounced;
 9. Attestation that the applicant knows all applicable requirements in A.R.S. Title 36, Chapter 21.1; this Article; and Articles 2 and 7 of this Chapter;
 10. Attestation that the information provided in the application, including the information in the documents accompanying the application form, is accurate and complete;
 11. The dated signature of:
 - a. If the applicant is an individual, the individual;
 - b. If the applicant is a corporation, an officer of the corporation;
 - c. If the applicant is a partnership, one of the partners;
 - d. If the applicant is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;
 - e. If the applicant is an association or cooperative, a member of the governing board of the association or cooperative;
 - f. If the applicant is a joint venture, one of the individuals signing the joint venture agreement;
 - g. If the applicant is a governmental agency, the individual in the senior leadership position with the agency or an individual designated in writing by that individual; and
 - h. If the applicant is a business organization type other than those described in subsections (C)(11)(b) through (f), an individual who is a member of the business organization; and
 12. Unless the applicant operates or intends to operate the air ambulance only as a volunteer not-for-profit service, a certified check, business check, or money order made payable to the Arizona Department of Health Services for the following fees:
 - a. A \$50 registration fee, as required under A.R.S. § 36-2212(D); and
 - b. A \$200 annual regulatory fee, as required under A.R.S. § 36-2240(4).
- D.** The Department requires submission of a separate application and fees for each air ambulance.
- E.** Except as provided under R9-25-805(C), the Department shall inspect each air ambulance to determine compliance with the provisions of A.R.S. Title 36, Chapter 21.1 and this Article before issuing an initial certificate of registration and at least every 12 months thereafter before issuing a renewal certificate of registration.
- F.** The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- G.** The Department may deny a certificate of registration for an air ambulance if the applicant:
1. Fails to meet the eligibility requirements of R9-25-802(B);
 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;

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3. Fails or has failed to comply with any provision in this Article or Article 2 or 7 of this Chapter;
4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3), as required under R9-25-1201(D), and requests a denial as permitted under R9-25-1201(E).

Historical Note

R9-25-802 recodified from A.A.C. R9-13-1502 (Supp. 98-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4092, effective September 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 8 A.A.R. 931, effective February 15, 2002 (Supp. 02-1). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-502 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

Exhibit 1. Repealed

Historical Note

Section R9-25-802, Exhibit 1 recodified from A.A.C. R9-13-1502, Exhibit 1 (Supp. 98-1). Exhibit 1 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 2. Repealed

Historical Note

Section R9-25-802, Exhibit 2 recodified from A.A.C. R9-13-1502, Exhibit 2 (Supp. 98-1). Exhibit 2 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 3. Repealed

Historical Note

Section R9-25-802, Exhibit 3 recodified from A.A.C. R9-13-1502, Exhibit 3 (Supp. 98-1). Exhibit 3 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 4. Repealed

Historical Note

Section R9-25-802, Exhibit 4 recodified from A.A.C. R9-13-1502, Exhibit 4 (Supp. 98-1). Exhibit 4 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

R9-25-803. Term and Transferability of Certificate of Registration (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11)

- A. The Department shall issue an initial certificate of registration:
 1. With a term of one year from date of issuance; or
 2. If requested by the applicant, with a term shorter than one year that allows for the Department to conduct annual inspections of all of the applicant's air ambulances at one time.
- B. The Department shall issue a renewal certificate of registration with a term of one year.
- C. If an applicant submits an application for renewal as described in R9-25-802 before the expiration date of the current certificate of registration, the current certificate of registration does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D. A certificate of registration is not transferable from one person to another.
- E. If there is a change in the ownership of an air ambulance, the new owner shall apply for and obtain a new certificate of registration before operating the air ambulance in this state.

Historical Note

Section R9-25-803 recodified from A.A.C. R9-13-1503, (Supp. 98-1). Section repealed; new Section adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Section recodified to R9-25-503 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

Exhibit 1. Recodified

Historical Note

Section R9-25-803, Exhibit 1 "EMT-P Drug List" and "EMT-I Drug List" recodified from A.A.C. R9-13-1503, Exhibit 1 "EMT-P Drug List" and "EMT-I Drug List" (Supp. 98-1). Exhibit 1 repealed; new Exhibit 1 adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 1507, effective May 1, 2000 (Supp. 00-1). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 3762, effective October 1, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 1654, effective March 30, 2001 (Supp. 01-1). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 9

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A.A.R. 1703, effective May 15, 2003 (Supp. 03-2). Exhibit 1 recodified to Article 5, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 2. Recodified

Historical Note

Exhibit 2 adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 1507, effective May 1, 2000 (Supp. 00-1). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 3762, effective October 1, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 1199, effective February 13, 2001 (Supp. 01-1). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Exhibit 2 recodified to Article 5, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

R9-25-804. Changes Affecting Registration (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), and 36-2212)

- A.** At least 30 days before the date of a change in a certificate holder's name, the certificate holder shall send the Department written notice of the name change.
- B.** No later than 10 days after a certificate holder ceases to operate an air ambulance, the certificate holder shall send the Department written notice of the date that the certificate holder ceased to operate the air ambulance and of the desire to relinquish the certificate of registration for the air ambulance as of that date.
- C.** Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
 - 1. For a notice described in subsection (A), issue an amended certificate of registration that incorporates the name change but retains the expiration date of the current certificate of registration; and
 - 2. For a notice described in subsection (B), send the certificate holder written confirmation of the voluntary relinquishment of the certificate of registration, with an effective date that corresponds to the written notice.
- D.** A certificate holder shall notify the Department in writing within one working day after a change in its eligibility to obtain a certificate of registration for an air ambulance under R9-25-802(B).

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-504 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-805. Inspections (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 36-2232(A)(11))

- A.** An applicant or certificate holder shall make an air ambulance available for inspection within Arizona at the request of the Department.
- B.** The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.
- C.** As permitted under A.R.S. § 36-2232(A)(11), upon certificate holder request and at certificate holder expense, the annual inspection of an air ambulance required for renewal of a certificate of registration may be conducted by a Department-approved inspection facility.

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-505 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

Exhibit 1. Recodified

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Exhibit 1 recodified to Article 5, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 2. Recodified

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Exhibit 2 recodified to Article 5, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 3. Repealed

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Exhibit repealed by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4).

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R9-25-806. Enforcement Actions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2212, 36-2234(L), 41-1092.03, and 41-1092.11(B))

- A. The Department may take an action listed in subsection (B) against a certificate holder's certificate of registration if the certificate holder:
1. Fails or has failed to meet the eligibility requirements of R9-25-802(B);
 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 3. Fails or has failed to comply with any provision in this Article or Article 2 or 7 of this Chapter; or
 4. Knowingly or negligently provides false documentation or false or misleading information to the Department.
- B. The Department may take the following actions against a certificate holder's certificate of registration:
1. After notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, revoke the certificate of registration; and
 2. In case of emergency, if the Department determines that a potential threat to the public health and safety exists and incorporates a finding to that effect in its order, immediately suspend the certificate of registration as authorized under A.R.S. § 36-2234(L).
- C. In determining whether to take action under subsection (B), the Department shall consider:
1. The severity of each violation relative to public health and safety;
 2. The number of violations relative to the transport volume of the air ambulance service;
 3. The nature and circumstances of each violation;
 4. Whether each violation was corrected and, if so, the manner of correction; and
 5. The duration of each violation.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-506 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-807. Minimum Standards for an Air Ambulance (A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)

- A. An applicant or certificate holder shall ensure that an air ambulance has:
1. A climate control system to prevent temperature extremes that would adversely affect patient care;
 2. If a fixed-wing air ambulance, pressurization capability;
 3. Interior lighting that allows for patient care and monitoring without interfering with the pilot's vision;
 4. For each place where a patient may be positioned, at least one electrical power outlet or other power source that is capable of operating all electrically powered medical equipment without compromising the operation of any electrical aircraft equipment;
 5. A back-up source of electrical power or batteries capable of operating all electrically powered life-support equipment for at least one hour;
 6. An entry that allows for patient loading and unloading without rotating a patient and stretcher more than 30 degrees about the longitudinal axis or 45 degrees about the lateral axis and without compromising the operation of monitoring systems, intravenous lines, or manual or mechanical ventilation;
 7. A configuration that allows each medical team member sufficient access to each patient to begin and maintain treatment modalities, including complete access to the patient's head and upper body for effective airway management;
 8. A configuration that allows for rapid exit of personnel and patients, without obstruction from stretchers and medical equipment;
 9. A configuration that protects the aircraft's flight controls, throttles, and communications equipment from any intentional or accidental interference from a patient or equipment and supplies;
 10. A padded interior or an interior that is clear of objects or projections in the head strike envelope;
 11. An installed self-activating emergency locator transmitter;
 12. A voice communications system that:
 - a. Is capable of air-to-ground communication, and
 - b. Allows the flight crew and medical team members to communicate with each other during flight;
 13. Interior patient compartment wall and floor coverings that are:
 - a. Free of cuts or tears,
 - b. Capable of being disinfected, and
 - c. Maintained in a sanitary manner; and
 14. If a rotor-wing air ambulance, the following:
 - a. A searchlight that:
 - i. Has a range of motion of at least 90 degrees vertically and 180 degrees horizontally,
 - ii. Is capable of illuminating a landing site, and
 - iii. Is located so that the pilot can operate the searchlight without removing the pilot's hands from the aircraft's flight controls;
 - b. Restraining devices that can be used to prevent a patient from interfering with the pilot or the aircraft's flight controls; and
 - c. A light to illuminate the tail rotor.
- B. An applicant or certificate holder shall ensure that:
1. Except as provided in subsection (C), each air ambulance has the equipment and supplies required in Table 1 for each mission level for which the air ambulance is used; and
 2. The equipment and supplies on an air ambulance are secured, stored, and maintained in a manner that prevents hazards to personnel and patients.

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- C. A certificate holder may conduct an interfacility critical care mission using an air ambulance that does not have all of the equipment and supplies required in Table 1 for the mission level if:
1. Care of the patient to be transported necessitates use of life-support equipment that because of its size or weight or both makes it unsafe or impossible for the air ambulance to carry all of the equipment and supplies required in Table 1 for the mission level, as determined by the certificate holder based upon:
 - a. The individual aircraft’s capabilities,
 - b. The size and weight of the equipment and supplies required in Table 1 and of the additional life-support equipment,
 - c. The composition of the required medical team, and
 - d. Environmental factors such as density altitude;
 2. The certificate holder ensures that, during the mission, the air ambulance has the equipment and supplies necessary to provide an appropriate level of medical care for the patient and to protect the health and safety of the personnel on the mission;
 3. The certificate holder ensures that, during the mission, the air ambulance is not directed by the air ambulance service or another person to conduct another mission before returning to a base location;
 4. The certificate holder ensures that the air ambulance is not used for another mission until the air ambulance has all of the equipment and supplies required in Table 1 for the mission level; and
 5. Within five working days after each interfacility critical care mission conducted as permitted under subsection (C), the certificate holder creates a record that includes the information required under R9-25-710(A)(8), a description of the life-support equipment used on the mission, a list of the equipment and supplies required in Table 1 that were removed from the air ambulance for the mission, and the justification for conducting the mission as permitted under subsection (C).

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 2633, effective June 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-507 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

Table 8.1. Minimum Equipment and Supplies Required on Air Ambulances, By Mission Level and Aircraft Type (Authorized by A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)

X = Required

ALS = Advanced Life Support Mission

BLS = Basic Life Support Mission

CC = Critical Care Mission

FW = Fixed-Wing Aircraft

RW = Rotor-Wing Aircraft

MINIMUM EQUIPMENT AND SUPPLIES	FW	RW	BLS	ALS	CC
A. Ventilation and Airway Equipment					
1. Portable and fixed suction apparatus, with wide-bore tubing, rigid pharyngeal curved suction tip, tonsillar and flexible suction catheters, 5F-14F	X	X	X	X	X
2. Portable and fixed oxygen equipment, with variable flow regulators	X	X	X	X	X
3. Oxygen administration equipment, including tubing; non-rebreathing masks (adult and pediatric sizes); and nasal cannulas (adult and pediatric sizes)	X	X	X	X	X
4. Bag-valve mask, with hand-operated, self-reexpanding bag (adult size), with oxygen reservoir/accumulator; mask (adult, pediatric, infant, and neonate sizes); and valve	X	X	X	X	X
5. Airways, oropharyngeal (adult, pediatric, and infant sizes)	X	X	X	X	X
6. Laryngoscope handle with extra batteries and bulbs, adult and pediatric	X	X	-	X	X
7. Laryngoscope blades, sizes 0, 1, and 2, straight; sizes 3 and 4, straight and curved	X	X	-	X	X
8. Endotracheal tubes, sizes 2.5-5.0 mm cuffed or uncuffed and 6.0-8.0 mm cuffed	X	X	-	X	X
9. Meconium aspirator	X	X	-	X	X
10. 10 mL straight-tip syringes	X	X	-	X	X
11. Stylettes for Endotracheal tubes, adult and pediatric	X	X	-	X	X
12. Magill forceps, adult and pediatric	X	X	-	X	X
13. Nasogastric tubes, sizes 5F and 8F, Salem sump sizes 14F and 18F	X	X	-	X	X
14. End-tidal CO ₂ detectors, colorimetric or quantitative	X	X	-	X	X

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15. Portable automatic ventilator with positive end expiratory pressure	X	X	-	X	X
B. Monitoring and Defibrillation					
1. Automatic external defibrillator	X	X	X	-	-
2. Portable, battery-operated monitor/defibrillator, with tape write-out/recorder, defibrillator pads, adult and pediatric paddles or hands-free patches, ECG leads, adult and pediatric chest attachment electrodes, and capability to provide electrical discharge below 25 watt-seconds	X	X	-	X	X
3. Transcutaneous cardiac pacemaker, either stand-alone unit or integrated into monitor/defibrillator	X	X	-	X	X
C. Immobilization Devices					
1. Cervical collars, rigid, adjustable or in an assortment of adult and pediatric sizes	-	X	X	X	X
2. Head immobilization device, either firm padding or another commercial device	-	X	X	X	X
3. Lower extremity (femur) traction device, including lower extremity, limb support slings, padded ankle hitch, padded pelvic support, and traction strap	-	X	X	X	X
4. Upper and lower extremity immobilization splints	-	X	X	X	X
D. Bandages					
1. Burn pack, including standard package, clean burn sheets	X	X	X	X	X
2. Dressings, including sterile multi-trauma dressings (various large and small sizes); abdominal pads, 10" x 12" or larger; and 4" x 4" gauze sponges	X	X	X	X	X
3. Gauze rolls, sterile (4" or larger)	X	X	X	X	X
4. Elastic bandages, non-sterile (4" or larger)	X	X	X	X	X
5. Occlusive dressing, sterile, 3" x 8" or larger	X	X	X	X	X
6. Adhesive tape, including various sizes (1" or larger) hypoallergenic and various sizes (1" or larger) adhesive	X	X	X	X	X
E. Obstetrical					
1. Obstetrical kit (separate sterile kit), including towels, 4" x 4" dressing, umbilical tape, sterile scissors or other cutting utensil, bulb suction, clamps for cord, sterile gloves, at least 4 blankets, and a head cover	X	X	X	X	X
2. An alternate portable patient heat source or 2 heat packs	X	X	X	X	X
F. Miscellaneous					
1. Sphygmomanometer (infant, pediatric, and adult regular and large sizes)	X	X	X	X	X
2. Stethoscope	X	X	X	X	X
3. Pediatric equipment sizing reference guide	X	X	X	X	X
4. Thermometer with low temperature capability	X	X	X	X	X
5. Heavy bandage or paramedic scissors for cutting clothing, belts, and boots	X	X	X	X	X
6. Cold packs	X	X	X	X	X
7. Flashlight (1) with extra batteries	X	X	X	X	X
8. Blankets	X	X	X	X	X
9. Sheets	X	X	X	X	X
10. Disposable emesis bags or basins	X	X	X	X	X
11. Disposable bedpan	X	X	X	X	X
12. Disposable urinal	X	X	X	X	X
13. Properly secured patient transport system	X	X	X	X	X
14. Lubricating jelly (water soluble)	X	X	X	X	X
15. Small volume nebulizer	X	X	-	X	X
16. Glucometer or blood glucose measuring device with reagent strips	X	X	X	X	X
17. Pulse oximeter with pediatric and adult probes	X	X	X	X	X
18. Automatic blood pressure monitor	X	X	X	X	X
G. Infection Control (Latex-free equipment shall be available)					

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1. Eye protection (full peripheral glasses or goggles, face shield)	X	X	X	X	X
2. Masks	X	X	X	X	X
3. Gloves, non-sterile	X	X	X	X	X
4. Jumpsuits or gowns	X	X	X	X	X
5. Shoe covers	X	X	X	X	X
6. Disinfectant hand wash, commercial antimicrobial (towelette, spray, or liquid)	X	X	X	X	X
7. Disinfectant solution for cleaning equipment	X	X	X	X	X
8. Standard sharps containers	X	X	X	X	X
9. Disposable red trash bags	X	X	X	X	X
10. High-efficiency particulate air mask	X	X	X	X	X
H. Injury Prevention Equipment					
1. Appropriate restraints (such as seat belts) for patient, personnel, and family members	X	X	X	X	X
2. Child safety restraints	X	X	X	X	X
3. Safety vest or other garment with reflective material for each personnel member	-	X	X	X	X
4. Fire extinguisher	X	X	X	X	X
5. Hazardous material reference guide	X	X	X	X	X
6. Hearing protection for patient and personnel	X	X	X	X	X
I. Vascular Access					
1. Intravenous administration equipment, with fluid in bags	X	X	-	X	X
2. Antiseptic solution (alcohol wipes and povidone-iodine wipes)	X	X	-	X	X
3. Intravenous pole or roof hook	X	X	-	X	X
4. Intravenous catheters 14G-24G	X	X	-	X	X
5. Intraosseous needles	X	X	-	X	X
6. Venous tourniquet	X	X	-	X	X
7. One of each of the following types of intravenous solution administration sets: a. A set with blood tubing, b. A set capable of delivering 60 drops per cc, and c. A set capable of delivering 10 or 15 drops per cc	X	X	-	X	X
8. Intravenous arm boards, adult and pediatric	X	X	-	X	X
9. IV pump or pumps (minimum of 3 infusion lines)	X	X	-	X	X
10. IV pressure bag	X	X	-	X	X
J. Medications					
1. Agents required in Tables 5.2 and, if applicable, 5.3 for the EMCT classification	X	X	X	X	X

Historical Note

New Table 8.1 renumbered from Table 1 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Table 1. Renumbered

Historical Note

New Table 1 made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Table 1 renumbered to Table 8.1 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-808. Recodified

Historical Note

New Section made by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-508 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

36-136. Powers and duties of director; compensation of personnel; rules

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.
2. Perform all duties necessary to carry out the functions and responsibilities of the department.
3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.
4. Administer and enforce the laws relating to health and sanitation and the rules of the department.
5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.
6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.
7. Prepare sanitary and public health rules.
8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.
2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to ensure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.

E. The compensation of all personnel shall be as determined pursuant to section 38-611.

F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer than eighteen months.

H. The director, by rule, shall:

1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, that are reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.
2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.
3. Define and prescribe reasonably necessary procedures that are not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.
4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to ensure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:
 - (a) Served at a noncommercial social event such as a potluck.
 - (b) Prepared at a cooking school that is conducted in an owner-occupied home.
 - (c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.
 - (d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.
 - (e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption.
 - (f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous.
 - (g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for individuals with developmental disabilities, the label must also disclose that fact. The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.

(h) A whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption.

5. Prescribe reasonably necessary measures to ensure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to ensure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to ensure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules. Primitive camp and picnic grounds offered by this state or a political subdivision of this state are exempt from rules adopted pursuant to this paragraph but are subject to approval by a county health department under sanitary regulations adopted pursuant to section 36-183.02. For the purposes of this paragraph, "primitive camp and picnic grounds" means camp and picnic grounds that are remote in nature and without accessibility to public infrastructure such as water, electricity and sewer.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.

11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.

12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.

13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.

I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.

J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.

K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (f) of this section, food and drink are exempt from the rules prescribed in subsection H of this section if offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous, without a limitation on its display area.

N. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (h) of this section, a whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption is exempt from the rules prescribed in subsection H of this section.

36-2202. Duties of the director; qualifications of medical director

A. The director shall:

1. Appoint a medical director of the emergency medical services and trauma system.
2. Adopt standards and criteria for the denial or granting of certification and recertification of emergency medical care technicians. These standards shall allow the department to certify qualified emergency medical care technicians who have completed statewide standardized training required under section 36-2204, paragraph 1 and a standardized certification test required under section 36-2204, paragraph 2 or who hold valid certification with a national certification organization. Before the director may consider approving a statewide standardized training or a standardized certification test, or both, each of these must first be recommended by the medical direction commission and the emergency medical services council to ensure that the standardized training content is consistent with national education standards and that the standardized certification tests examines comparable material to that examined in the tests of a national certification organization.

3. Adopt standards and criteria that pertain to the quality of emergency care pursuant to section 36-2204.
4. Adopt rules necessary to carry out this chapter. Each rule shall identify all sections and subsections of this chapter under which the rule was formulated.

5. Adopt reasonable medical equipment, supply, staffing and safety standards, criteria and procedures for issuance of a certificate of registration to operate an ambulance.

6. Maintain a state system for recertifying emergency medical care technicians, except as otherwise provided by section 36-2202.01, that is independent from any national certification organization recertification process. This system shall allow emergency medical care technicians to choose to be recertified under the state or the national certification organization recertification system subject to subsection H of this section.

B. Emergency medical technicians who choose the state recertification process shall recertify in one of the following ways:

1. Successfully completing an emergency medical technician refresher course approved by the department.

2. Successfully completing an emergency medical technician challenge course approved by the department.

3. For emergency medical care technicians who are currently certified at the emergency medical technician level by the department, attesting on a form provided by the department that the applicant holds a valid and current cardiopulmonary resuscitation certification, has and will maintain documented proof of a minimum of twenty-four hours of continuing medical education within the last two years consistent with department rules and has functioned in the capacity of an emergency medical technician for at least two hundred forty hours during the last two years.

C. After consultation with the emergency medical services council the director may authorize pilot programs designed to improve the safety and efficiency of ambulance inspections for governmental or quasi-governmental entities that provide emergency medical services in this state.

D. The rules, standards and criteria adopted by the director pursuant to subsection A, paragraphs 2, 3, 4 and 5 of this section shall be adopted in accordance with title 41, chapter 6, except that the director may adopt on an emergency basis pursuant to section 41-1026 rules relating to the regulation of ambulance services in this state necessary to protect the public peace, health and safety in advance of adopting rules, standards and criteria as otherwise provided by this subsection.

E. The director may waive the requirement for compliance with a protocol adopted pursuant to section 36-2205 if the director determines that the techniques, drug formularies or training makes the protocol inconsistent with contemporary medical practices.

F. The director may suspend a protocol adopted pursuant to section 36-2205 if the director does all of the following:

1. Determines that the rule is not in the public's best interest.

2. Initiates procedures pursuant to title 41, chapter 6 to repeal the rule.

3. Notifies all interested parties in writing of the director's action and the reasons for that action. Parties interested in receiving notification shall submit a written request to the director.

G. To be eligible for appointment as the medical director of the emergency medical services and trauma system, the person shall be qualified in emergency medicine and shall be licensed as a physician in one of the states of the United States.

H. Applicants for certification shall apply to the director for certification. Emergency medical care technicians shall apply for recertification to the director every two years. The director may extend the expiration date of an emergency medical care technician's certificate for thirty days. The department shall establish a fee for this extension by rule. Emergency medical care technicians shall pass an examination administered by the department as a condition for recertification only if required to do so by the advanced life support base hospital's medical director or the emergency medical care technician's medical director.

I. The medical director of the emergency medical services and trauma system is exempt from title 41, chapter 4, articles 5 and 6 and is entitled to receive compensation pursuant to section 38-611, subsection A.

J. The standards, criteria and procedures adopted by the director pursuant to subsection A, paragraph 5 of this section shall require that ambulance services serving a rural or wilderness certificate of necessity area with a population of less than ten thousand persons according to the most recent United States decennial census have at least one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (a) and one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (b) staffing an ambulance while transporting a patient and that ambulance services serving a population of ten thousand persons or more according to the most recent United States decennial census have at least one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (a) and one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (a), (c), (d) or (e) staffing an ambulance while transporting a patient.

K. If the department determines there is not a qualified administrative medical director, the department shall ensure the provision of administrative medical direction for an emergency medical technician if the emergency medical technician meets all of the following criteria:

1. Is employed by a nonprofit or governmental provider employing less than twelve full-time emergency medical technicians.
2. Stipulates to the inability to secure a physician who is willing to provide administrative medical direction.
3. Stipulates that the provider agency does not provide administrative medical direction for its employees.

36-2209. Powers and duties of the director

A. The director shall:

1. Appoint and define the duties and prescribe the terms of employment of all employees of the bureau.
2. Adopt rules necessary for the operation of the bureau and for carrying out the purposes of this chapter.
3. Cooperate with and assist the personnel of emergency receiving facilities and other health care institutions in preparing a plan to be followed by these facilities and institutions in the event of a major disaster.
4. Cooperate with the state director of emergency management when a state of emergency or a state of war emergency has been declared by the governor.

B. The director may:

1. Request the cooperation of utilities, communications media and public and private agencies to aid and assist in the implementation and maintenance of a statewide emergency medical services system.
2. Enter into contracts and agreements with any local governmental entity, agency, facility or group that provides a similar program of emergency medical services in a contiguous state.
3. Enter into contracts and agreements for the acquisition and purchase of any equipment, tools, supplies, materials and services necessary in the administration of this chapter.
4. Enter into contracts with emergency receiving facilities, governmental entities, emergency rescue services and ambulance services, and the director may establish emergency medical services, including emergency receiving facilities, if necessary to assure the availability and quality of these services.
5. Accept and expend federal funds and private grants, gifts, contributions and devises to assist in carrying out the purposes of this chapter. These funds do not revert to the state general fund at the close of a fiscal year.
6. Establish an emergency medical services notification system that uses existing telephone communications networks.
7. Contract with private telephone companies for the establishment of a statewide emergency reporting telephone number.
8. Authorize the testing entity to collect fees determined by the director. In determining fees for testing entities the director shall consider the fees required by national certification organizations.

36-2212. Certificate of registration to operate an ambulance; termination on change in ownership; fees; exemption

A. A person shall not operate an ambulance in this state unless the ambulance has a certificate of registration and complies with this article and the rules, standards and criteria adopted pursuant to this article.

B. A person may obtain a certificate of registration to operate an ambulance by submitting an application on a form prescribed by the director and by demonstrating to the director's satisfaction that the applicant is in compliance with this article and all rules, standards and criteria adopted by the director for the operation of an ambulance.

C. A certificate of registration issued under this section terminates upon any change of ownership or control of the ambulance. Following any change of ownership, the new owner of an ambulance shall apply for and receive a new certificate of registration from the director before the ambulance may again be operated in this state. This subsection does not apply if an ambulance service borrows, leases, rents or otherwise obtains a registered ambulance from another ambulance service to temporarily replace an inoperable ambulance.

D. The department shall issue a certificate of registration to a person who complies with the requirements of this article and who pays an initial registration fee. A certificate of registration is valid for one year. However, an ambulance service may request that the department issue an initial certificate of registration that expires before the end of one year in order for the department to conduct an annual inspection of all of the ambulance service's ambulances at one time. A person may renew a certificate of registration by complying with the requirements of this article and by paying a renewal fee prescribed by the director. The fee for initial registration and registration renewal shall not exceed fifty dollars for each ambulance. The department shall base these fees on an amount that approximates the per vehicle costs incurred by the department to administer this chapter. The director shall deposit, pursuant to sections 35-146 and 35-147, fees collected under this subsection in the state general fund. The department shall not charge a registration fee for an ambulance to an ambulance service that operates an ambulance or ambulances only as a volunteer not-for-profit service.

36-2213. Regulation of air ambulance services

The director shall adopt rules to establish minimum standards for the operation of air ambulance services that are necessary to assure the public health and safety. The director may use the current standards adopted by the commission on accreditation of air medical services. Each rule shall reference the specific authority from this chapter under which the rule was formulated. The rules shall provide for the department to do the following:

1. Establish standards and requirements relating to at least the following:

(a) Medical control plans. These plans shall conform to the standards adopted pursuant to section 36-2204, paragraph 9.

(b) Qualifications of the medical director of the air ambulance services.

(c) Operation of only those air ambulances registered pursuant to section 36-2212 and licensed pursuant to title 28, chapter 25.

2. Establish response times and operation times to assure that the health and safety needs of the public are met.

3. Establish standards for emergency medical dispatch training, including prearrival instruction. For the purposes of this paragraph, "emergency medical dispatch" means the receipt of calls requesting emergency medical services and the response of appropriate resources to the appropriate location.

4. Require the filing of run log information.

5. Issue, transfer, suspend or revoke air ambulance service licenses under terms and conditions consistent with this chapter. These rules shall be consistent for all ambulance services.

6. Investigate the operation of an air ambulance service including a person operating an ambulance that has not been issued a certificate of registration and conduct on-site investigations of facilities communications equipment, vehicles, procedures, materials and equipment.

7. Prescribe the terms of the air ambulance service license.
8. Prescribe the criteria for the air ambulance service license inspection process and for determining an air ambulance service's compliance with licensure requirements. The director shall accept proof that an air ambulance service is accredited by the commission on accreditation of air medical services in lieu of all licensing inspections required if the director receives a copy of the air ambulance service's accreditation report.

36-2214. Air ambulance service license

- A. A person shall not operate an air ambulance service in this state unless the air ambulance service is licensed and complies with this article and the rules adopted pursuant to this article.
- B. On receipt of a properly completed application for initial licensure or relicensure on a form prescribed by the director, the director shall conduct an inspection of the air ambulance service as prescribed by this article. If an application for a license is submitted due to a planned change of ownership, the director shall determine the need for an inspection of the air ambulance service.
- C. The director shall issue a license if the director determines that an applicant and the air ambulance service for which the license is sought comply with the requirements of this article and rules adopted pursuant to this article and the applicant agrees to carry out a plan acceptable to the director to eliminate any deficiencies.

36-2215. Required insurance or financial responsibility; denial or revocation for failure to comply

- A. The director shall not issue an air ambulance service license to an ambulance service unless the applicant for the license or the licensee files with the department a certificate of insurance completed by an insurance company that is authorized to transact business in this state or other evidence of financial responsibility in an amount that the director by rule determines is necessary to adequately protect the interest of the public. The applicant for a license or the licensee shall have malpractice and liability insurance that requires the insurer to compensate for injuries to persons and for loss or damage to property resulting from the negligent operation of the air ambulance service.
- B. The director shall deny the application for a license or revoke the license of any air ambulance service that fails to comply with this section.

36-2217. Exemption from regulation

- A. This chapter does not apply to:
 1. Vehicles used for the emergency transportation of persons injured at an industrial site.
 2. Persons engaged in and vehicles used for air transportation of sick or injured people in a noncritical or nonemergency situation as determined by a physician.
 3. Medical evacuation equipment used and owned by the department of public safety in air, ground or water evacuation and including fixed wing aircraft, helicopters, ground ambulances and similar ground conveyances, snowmobiles and water traversing equipment.
 4. Vehicles provided or contracted for emergency medical services by a political subdivision if these vehicles are primarily used to provide on the scene stabilization of sick, injured, wounded, incapacitated or helpless persons.
 5. Ambulances from other states that are:
 - (a) Responding to a major catastrophe or emergency in this state because there are insufficient registered ambulances in this state to respond in that situation.
 - (b) Operating either from a location outside of this state to transport a patient to a location within this state or operating from a location outside of this state and crossing through this state to transport a patient to a location outside this state.
 6. Stretcher vans that meet the requirements of section 36-2223.
- B. Except as provided in subsection A, paragraph 5, subdivision (a) of this section, an ambulance from another state shall not pick up a patient in this state and transport that patient to another location in this state unless that ambulance is registered under this chapter.

36-2232. Director; powers and duties; regulation of ambulance services; inspections; response time compliance

A. The director shall adopt rules to regulate the operation of ambulances and ambulance services in this state. Each rule shall identify all sections and subsections of this chapter under which the rule was formulated. The rules shall provide for the department to do the following:

1. Determine, fix, alter and regulate just, reasonable and sufficient rates and charges for the provision of ambulances, including rates and charges for advanced life support service, basic life support service, patient loaded mileage, standby waiting, subscription service contracts and other contracts for services related to the provision of ambulances. The director may establish a rate and charge structure as defined by federal medicare guidelines for ambulance services. The director shall inform all ambulance services of the procedures and methodology used to determine ambulance rates or charges.
2. Regulate operating and response times of ambulances to meet the needs of the public and to ensure adequate service. The rules adopted by the director for certificated ambulance service response times shall include uniform standards for urban, suburban, rural and wilderness geographic areas within the certificate of necessity based on, at a minimum, population density, geographic and medical considerations.
3. Determine, fix, alter and regulate bases of operation. The director may issue a certificate of necessity to more than one ambulance service within any base of operation. For the purposes of this paragraph, "base of operation" means a service area granted under a certificate of necessity.
4. Issue, amend, transfer, suspend or revoke certificates of necessity under terms consistent with this article.
5. Prescribe a uniform system of accounts to be used by ambulance services that conforms to standard accounting forms and principles for the ambulance industry and generally accepted accounting principles.
6. Require the filing of an annual financial report and other data. These rules shall require an ambulance service to file the report with the department not later than one hundred eighty days after the completion of its annual accounting period.
7. Regulate ambulance services in all matters affecting services to the public to the end that this article may be fully carried out.
8. Prescribe bonding requirements, if any, for ambulance services granted authority to provide any type of subscription service.
9. Offer technical assistance to ambulance services to maximize a healthy and viable business climate for the provision of ambulances.
10. Offer technical assistance to ambulance services in order to obtain or to amend a certificate of necessity.
11. Inspect, at a maximum of twelve month intervals, each ambulance registered pursuant to section 36-2212 to ensure that the vehicle is operational and safe and that all required medical equipment is operational. At the request of the provider, the inspection may be performed by a facility approved by the director. If a provider requests that the inspection be performed by a facility approved by the director, the provider shall pay the cost of the inspection.

B. The director may require any ambulance service offering subscription service contracts to obtain a bond in an amount determined by the director that is based on the number of subscription service contract holders and to file the bond with the director for the protection of all subscription service contract holders in this state who are covered under that subscription contract.

C. An ambulance service shall:

1. Maintain, establish, add, move or delete suboperation stations within its base of operation to ensure that the ambulance service meets the established response times or those approved by the director in a political subdivision contract.
2. Determine the operating hours of its suboperation stations to provide for coverage of its base of operation.
3. Provide the department with a list of suboperation station locations.

4. Notify the department not later than thirty days after the ambulance service makes a change in the number or location of its suboperation stations.

D. At any time the director or the director's agents may:

1. Inquire into the operation of an ambulance service, including a person operating an ambulance that has not been issued a certificate of registration or a person who does not have or is operating outside of a certificate of necessity.

2. Conduct on-site inspections of facilities, communications equipment, vehicles, procedures, materials and equipment.

3. Review the qualifications of ambulance attendants.

E. If all ambulance services that have been granted authority to operate within the same service area or that have overlapping certificates of necessity apply for uniform rates and charges, the director may establish uniform rates and charges for the service area.

F. In consultation with the medical director of the emergency medical services and trauma system, the emergency medical services council and the medical direction commission, the director of the department of health services shall establish protocols for ambulance services to refer and advise a patient or transport a patient by the most appropriate means to the most appropriate provider of medical services based on the patient's condition. The protocols shall include triage and treatment protocols that allow all classifications of emergency medical care technicians responding to a person who has accessed 911, or a similar public dispatch number, for a condition that does not pose an immediate threat to life or limb to refer and advise a patient or transport a patient to the most appropriate health care institution as defined in section 36-401 based on the patient's condition, taking into consideration factors including patient choice, the patient's health care provider, specialized health care facilities and local protocols.

G. The director, when reviewing an ambulance service's response time compliance with its certificate of necessity, shall consider in addition to other factors the effect of hospital diversion, delayed emergency department admission and the number of ambulances engaged in response or transport in the affected area.

36-2234. Hearings; waiver of hearing; emergency action; judicial review

A. The director shall require a public hearing on any proposed action related to rates, fares or charges, operating or response times, bases of operation or certificates of necessity unless subsection C, E, or M of this section applies.

B. A public hearing held pursuant to subsection A of this section shall meet the following requirements:

1. The hearing shall be held pursuant to title 41, chapter 6, article 10.

2. The director shall mail notice of the hearing to every ambulance service in the affected region no later than fifteen days before the hearing.

3. The director may mail notice to other persons who the director determines are interested in the hearing.

4. In a hearing or rehearing conducted pursuant to this article, an ambulance service may be represented by a corporate officer, an employee or a designee who has been specifically authorized by the ambulance service to represent it.

C. The director may waive the hearing required under subsection A of this section if notification, including a general description of the proposed action of the department and the time and manner for any interested person to request a hearing, is given and all of the following apply:

1. Notification of the proposed action has been sent to every ambulance service in the affected region no later than fifteen days before the action.

2. The director has notified other persons who the director determines are interested in the proposed action no later than fifteen days before the action.

3. The director has published notice of the proposed action in a newspaper of general circulation in the affected region at least once each week for two consecutive weeks before the action is taken.

4. The director has received no requests within the fifteen day notification period for a hearing to be held on the proposed action.

D. If the director receives a request pursuant to subsection C, paragraph 4 of this section, the director shall hold a hearing in compliance with subsection B of this section.

E. The director shall not hold a hearing if a person requests a hearing regarding a rate increase that does not exceed the amount computed as follows:

1. Determine the percentage growth in the transportation consumer price index of the United States department of labor, bureau of labor statistics, from the end of the second preceding calendar year to the calendar year immediately preceding the calendar year for which the rate increase is requested.
2. Determine the percentage growth in the medical care consumer price index of the United States department of labor, bureau of labor statistics, from the end of the second preceding calendar year to the calendar year immediately preceding the calendar year for which the rate increase is requested.
3. Add the amount determined in paragraph 1 of this subsection to the amount determined in paragraph 2 of this subsection and divide the sum by two.

F. A rate increase authorized pursuant to subsection E of this section is deemed to be fixed by the department at the requested level. Notwithstanding subsection C of this section, the department shall hold a hearing pursuant to section 36-2232, subsection E for any proposed uniform rate or charge that exceeds the annual rate increase prescribed in subsection E of this section. The department shall require the applicants to submit the following information signed by the designated financial officer and the chief executive of the ambulance service who has fiduciary responsibility for providing accurate financial information:

1. A financial statement for the previous twenty-four months relating to the certificated areas.
2. Any additional information the department requires to analyze the request.

G. If an ambulance service with an established general public rate applies for a contract rate or range of rates that is up to thirty per cent less than its established rate, the director shall grant the rate without a public hearing or waiver, and without any right of intervention, unless within ninety days of the filing of a completed application the director determines that the contract rate or range of rates applied for does not accurately reflect the cost and economics of providing the contract services, would adversely affect the service available to the general public in the area of service as designated by its certificate of necessity or would cause any fixed rate, fare or charge to the general public to be adversely affected.

H. If the department disallows a proposed contract rate pursuant to subsection G of this section, the ambulance service has a right to a hearing for review of the proposed contract rate or range of rates.

I. The director may adopt rules for the establishment of a contract rate or range of rates that may be implemented and that exceeds the thirty per cent rate variance identified pursuant to subsection G of this section.

J. Subsections G, H and I of this section are limited to contract rates or a range of rates applied for prescheduled, interfacility or convalescent transports.

K. A service contract between an ambulance service and a political subdivision of this state, including local fire districts, shall be filed with and approved by the department in accordance with the following requirements:

1. On receipt of the proposed contract, the department has fifteen days to review the contract and notify the ambulance service of any additional information the department requires, recommended corrections or any provision that does or may violate this article.
2. The ambulance service has fifteen days to provide the department with the information requested or to submit a revised or amended contract if required under paragraph 1 of this subsection.
3. The contract becomes effective fifteen days after the ambulance service complies with the department's request unless the department determines that any rate or charge or other provisions specified in the contract will cause any fixed rate or charge to the general public rate to be adversely affected or the contract would be in violation of the ambulance service's certificate of necessity.
4. If the department disallows a proposed contract pursuant to this subsection, the ambulance service has a right to a hearing for review of the proposed contract.

5. The rates and charges contained in the contract are the rates and charges fixed by the director in a decision or order for the ambulance service and conform to the ambulance service's current or subsequent general public rates and charges.

6. The area of response is within the ambulance service's certificated area.

L. In case of emergency, the director may take action providing for immediate suspension of a certificate of registration or a certificate of necessity, or both, under this section without notice or a hearing if the director determines that a potential threat to the public health and safety exists. If such action is taken by the director, the director shall conduct a hearing within ten days after the date of the director's action unless the person against whom the action is directed waives the right to have a hearing held within ten days. If the ten day hearing requirement is waived, the director shall set a date mutually agreeable to the interested parties. The purpose of the hearing is to review the decision of the director to take such action. The director shall make findings of fact and may continue, suspend or modify the director's action.

M. The director shall waive the hearing required under subsection A of this section if geographical changes in suboperation stations do not alter the service area or adversely affect approved response times.

N. Except as provided in section 41-1092.08, subsection H, a final decision of the director is subject to judicial review pursuant to title 12, chapter 7, article 6.

36-2240. Fees

Fees not to exceed the following amounts shall be paid by the owner of an ambulance service to the department for deposit in the state general fund to be available for legislative appropriation in order to carry out the provisions of this chapter:

1. One hundred dollars upon filing an application for a certificate of necessity.
2. Fifty dollars upon filing an application to amend, transfer or renew a certificate of necessity.
3. For the issuance of an initial certificate of necessity, two hundred dollars for each ambulance proposed to be operated by the ambulance service to which the certificate is granted.
4. An annual regulatory fee of two hundred dollars for each ambulance issued a certificate of registration pursuant to section 36-2212, to be collected at the same time as the certificate of registration fee imposed by section 36-2212.

41-1092.03. Notice of appealable agency action or contested case; hearing; informal settlement conference; applicability

A. Except as provided in subsection D of this section, an agency shall serve notice of an appealable agency action or contested case pursuant to section 41-1092.04. The notice shall:

1. Identify the statute or rule that is alleged to have been violated or on which the action is based.
2. Identify with reasonable particularity the nature of any alleged violation, including, if applicable, the conduct or activity constituting the violation.
3. Include a description of the party's right to request a hearing on the appealable agency action or contested case.
4. Include a description of the party's right to request an informal settlement conference pursuant to section 41-1092.06.

B. A party may obtain a hearing on an appealable agency action or contested case by filing a notice of appeal or request for a hearing with the agency within thirty days after receiving the notice prescribed in subsection A of this section. The notice of appeal or request for a hearing may be filed by a party whose legal rights, duties or privileges were determined by the appealable agency action or contested case. A notice of appeal or request for a hearing also may be filed by a party who will be adversely affected by the appealable agency action or contested case and who exercised any right provided by law to comment on the action being appealed or contested, provided that the grounds for the notice of appeal or request for a hearing are limited to issues raised in that party's comments. The notice of appeal or request for a hearing shall identify the party, the party's address, the agency and the action being appealed or contested and shall contain a concise statement of the reasons for the appeal or request for a hearing. The agency shall notify the office of the appeal or request for a hearing and the office shall schedule an appeal or

contested case hearing pursuant to section 41-1092.05, except as provided in section 41-1092.01, subsection F.

C. If good cause is shown an agency head may accept an appeal or request for a hearing that is not filed in a timely manner.

D. This section does not apply to a contested case if the agency:

1. Initiates the contested case hearing pursuant to law other than this chapter and not in response to a request by another party.
2. Is not required by law, other than this chapter, to provide an opportunity for an administrative hearing before taking action that determines the legal rights, duties or privileges of an applicant for a license.

41-1092.11. Licenses; renewal; revocation; suspension; annulment; withdrawal

A. If a licensee makes timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

B. Revocation, suspension, annulment or withdrawal of any license is not lawful unless, before the action, the agency provides the licensee with notice and an opportunity for a hearing in accordance with this article. If the agency finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the agency may order summary suspension of a license pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

DEPARTMENT OF HEALTH SERVICES (F-17-0709)

Title 9, Chapter 25, Article 9, Ground Ambulance Certificate of Necessity; Article 10, Ground Ambulance Vehicle Registration; Article 11, Ground Ambulance Service General Public Rates and Charges, Contracts



**GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT**

MEETING DATE: July 6, 2017

AGENDA ITEM: E-11

TO: Members of the Governor's Regulatory Review Council

FROM: Chris Kleminich, Staff Attorney

DATE : June 20, 2017

SUBJECT: DEPARTMENT OF HEALTH SERVICES (F-17-0709)
Title 9, Chapter 25, Article 9, Ground Ambulance Certificate of Necessity; Article 10, Ground Ambulance Vehicle Registration; Article 11, Ground Ambulance Service General Public Rates and Charges, Contracts

This five-year-review report from the Arizona Department of Health Services (Department) covers 14 rules, two of which are exhibits, in A.A.C. Title 9, Chapter 25, Article 9 that relate to standards and processes for ground ambulance certificates of necessity. The report also covers six rules in Article 10 that relate to the registration of ground ambulances, and ten rules in Article 11 that relate to rates and charges.

The rules in all three articles, with the exception from Exhibits 9A and 9B, were first adopted in 2001. Sections 901, 902, 1002, 1003, and 1004 were revised in a 2013 exempt rulemaking.

Proposed Action

The Department indicates that it plans to address issues identified in this report in a Notice of Final Rulemaking that will be submitted to the Council by December 2022.

Substantive or Procedural Concerns

Staff expressed concern to the Department about the potential of waiting until December 2022 to amend the rules. In response, the Department has provided a timeline that shows its plan for rulemakings in the Chapter with sequential stakeholder input.ⁱ The Department indicates to staff that the timeline has been developed to ensure time for engagement with an active group of stakeholders without putting an undue burden on those stakeholders due to concurrent rulemaking. The Department believes that this timeline ensures that those components of the rules that could benefit from input from both air ambulance stakeholders and ground ambulance stakeholders would be open for revisions for at least part of their respective rulemakings.

ⁱ This timeline has been provided as an attachment to the report.

Analysis of the agency's report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. Has the agency certified that it is in compliance with A.R.S. § 41-1091?

Yes. The Department has certified its compliance with A.R.S. § 41-1091.

2. Has the agency analyzed the rules' effectiveness in achieving their objectives?

Yes. The Department indicates that the following rules could be made more effective:

- Section 901: A definition of “change in ownership” should be added and the definition of “gross revenue” should be amended.
- Section 902: A number of issues are identified, including:
 - The application packet should require information about any other name by which the entity “ground ambulance service” was known.
 - Additional documentation should be required as part of an application packet for an initial certificate of necessity.
 - More items should be included in the application packet in subsection (A).
 - Subsection (E) should include a reference to R9-25-903, which includes criteria to be used by the Department in deciding whether or not to issue a certificate of necessity.
- Section 904: A number of issues are identified, including:
 - Subsections (B) and (C) should be clarified to note that the Department is not issuing an approval to commence operations but is considering an application.
 - For a ground ambulance service providing advanced life support (ALS), the required insurance coverage should not only include the automobile liability insurance and professional liability insurance required for the ground ambulance service but also the professional liability insurance for ALS personnel.
 - The renewal application should require the statement specified in R9-25-902(A)(1)(o) and the date of the applicant's signature.
 - A standard for approval of a renewal of a certificate of necessity should be included in the rule.
- Section 905: Subsections (A) and (B) should better tailor the documentation submitted by a certificate holder in support of the request to amend a certificate of necessity to the type of change being requested. In addition, the requirement in subsection (B)(5) for the submission of “any other information or documents requested by the Director to clarify incomplete or ambiguous information or documents” should be replaced with a requirement for stating whether supplementary requests for information can be made by the Department during a substantive review. Also, subsection (C) should include a reference to R9-25-903 and R9-25-906.
- Section 906: The factors listed in A.R.S. § 36-2232(G) to be considered in determining response-time tolerances should be referenced or included in the rule.
- Section 907: Subsection (1) of the rule is confusing and the rule does not capture other conditions where a certificate holder should or may be ethically bound to provide emergency medical services (EMS) outside of the certificate holder's service area. The

Department has issued two substantive policy statements to clarify the Department's interpretation of the rule.

- Section 908: Conditions under which a certificate holder shall not transport a patient are confusingly combined with conditions under which a certificate holder may, but is not required to, transport a patient.
- Section 909: Subsection (B), which duplicates requirements in R9-25-902(A)(3)(h) and R9-25-904(A)(2), should be removed or amended. In addition, the minimum insurance coverage levels should be considered for potential increases. Also, the rule does not differentiate between professional liability insurance for the ground ambulance service and the professional liability insurance for ALS personnel that is required of ground ambulance services providing ALS but is not required for personnel of ground ambulance services only providing basic life support (BLS).
- Section 910: The length of time a certificate holder is required to maintain records should be specified.
- Section 912: The rule does not provide a regulated person with notice of the immediate suspension allowed under A.R.S. §§ 36-2234(L) and 41-1092.11(B) nor does it address the “other disciplinary action” that may be taken.
- Section 1001: The rule should require disclosure of other names by which the applicant does business, the title of the individual signing the application, and the date the application was signed. In addition, subsection (E) should either include criteria for approving an application or include a reference to the criteria to be used by the Department in deciding whether or not to issue a certificate of registration.
- Section 1002: Subsection (8) should include requirements in A.R.S. § 28-955. Subsection (22) should clarify who may supply an inspection tag or allowed for a disposable fire extinguisher.
- Section 1005: Subsection (H) should require documentation of the repair being completed.
- Section 1006: The requirement in subsection (A) could be included in Section 1002 instead, and the requirements in subsection (B) were included in Sections 1003 and 1004.
- Section 1101: A number of issues are identified, including:
 - Specifying, in subsection (A)(3), what period of time an Ambulance Revenue and Cost Report (ARCR) needed to cover.
 - Requiring, in subsection (A)(4), a projected ARCR.
 - Requiring, in subsection (A)(9), the date the attestation was signed.
 - Subsection (A)(3) should specify the circumstances under which financial statements should be submitted and the circumstances under which an ARCR should be submitted, rather than giving an applicant a choice of submitting either.
 - The requirement in subsection (A)(10) for the submission of “any other information or documents requested by the Director to clarify or complete the application” should be replaced with a requirement for stating whether supplementary requests for information can be made by the Department during a substantive review.
 - Subsection (B) should include a reference to Sections 1106 and 1107, which include criteria to be used by the Department in deciding whether to approve an initial general public rate.

- Section 1102: A number of issues are identified, including:
 - In an application, a certificate holder should be required to include the certificate of necessity number assigned by the Department and the date the attestation was signed.
 - Subsection (B)(7) should specify what period of time an Ambulance Revenue and Cost Report needs to cover.
 - Subsection (B)(8) should require a projected Ambulance Revenue and Cost Report rather than projected income statements and cash-flow statements.
 - The requirement in subsection (B)(14) for the submission of “any other information or documents requested by the Director to clarify or complete the application” should be replaced with a requirement for stating whether supplementary requests for information can be made by the Department during a substantive review.
 - Subsection (C) should include a reference to Sections 1106 and 1107.
- Section 1103: In an application, a certificate holder should be required to include the certificate of necessity number assigned by the Department. In addition, subsection (B) should include a reference to Sections 1106 and 1107.
- Section 1104: A certificate holder should be required to include the certificate of necessity number assigned by the Department in the cover letter, as well as the name of the other party to the contract. In addition, subsection (B) should include a reference to Sections 1106 and 1107, and, if applicable, A.R.S. § 36-2234(K). Also, the rule should specify that a contract may not be implemented until approved by the Department.
- Section 1105: Subsection (A)(1) requires the submission of some information that is useful in determining a subscription service rate, but the rule does not require the name of the certificate holder or number assigned by the Department to the certificate of necessity.
- Section 1106: The factors listed in subsection (A) should be linked to the information required in the Ambulance Revenue and Cost Report in Exhibits 9A and 9B. In addition, subsection (C) should provide a cap on the rate of return.
- Section 1107: Subsection (C) should provide for the costs of additional professional insurance for ALS personnel, as required by Section 902(B)(2). In addition, the method of determining the standing waiting rate in subsection (E) should be assessed to determine its appropriateness.
- Section 1108: The rule should specify that, under A.R.S. § 36-2239(D), a rate or charge is not effective and cannot be charged until approved by the Department. In addition, subsection (A)(2) should allow a ground ambulance service to calculate mileage using software designed for that purpose.
- Section 1110: Subsections (C) and (D) should be combined as they both address combined rates and charges.

3. **Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?**

Yes. The Department indicates that it has received one written criticism related to Sections 1107 and 1108. A summary of the comment, along with the Department’s response, can

be found on page 33 of the report. The Department indicates that to address the criticism it plans to make the rules clearer so there is no confusion about what is expected.

4. Has the agency analyzed whether the rules are authorized by statute?

Yes. The Department cites to both general and specific authority for the rules. Of particular significance is A.R.S. § 36-136(F), which allows the Department to “make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.”

5. Has the agency analyzed the rules’ consistency with statutes and other rules?

Yes. The Department indicates that the following rules are inconsistent with state statutes and rules:

- Section 902 is inconsistent with A.R.S. § 36-2240(3) because the rule does not require an applicant for an initial certificate of necessity to pay the \$200 fee per ambulance required by that statute. In addition, subsection (A)(1)(c) is inconsistent with Sections 201 and 202 which do not require that administrative medical direction and on-line medical direction be provided through affiliation with an ALS base hospital or centralized medical communications center.
- For Section 906, the factors listed in A.R.S. § 36-2232(G) to be considered in determining response-time tolerances should be referenced or included in the rule.
- Section 908 is inconsistent with A.R.S. § 36-2205(E) and Section 504(B), which provide for patient choice.
- Section 912 is inconsistent with A.R.S. §§ 36-2234(L) and 41-1092.11(B), which allow for the immediate suspension of a certificate of necessity, without notice and a hearing, in the case of an emergency where there is a potential threat to public health and safety.
- In Section 1005, some cross-references to Section 1002 are incorrect.

6. Has the agency analyzed the current enforcement status of the rules?

Yes. The Department indicates that, apart from Section 902, the rules have been enforced without difficulty.

7. Has the agency analyzed whether the rules are clear, concise, and understandable?

Yes. Improvements related to clarity, conciseness, and understandability have been identified for all of the rules except Sections 905, 909, and 1004.

8. Stringency of the Rules:

a. Are the rules more stringent than corresponding federal law?

No. The Department indicates that no federal laws correspond to the rules.

b. If so, is there statutory authority to exceed the requirements of federal law?

Not applicable.

9. For rules adopted after July 29, 2010:

a. Do the rules require issuance of a regulatory permit, license or agency authorization?

Yes. The rules require issuance of an agency authorization.

b. If so, are the general permit requirements of A.R.S. § 41-1037 met or does an exception apply?

Yes. In accordance with A.R.S. § 41-1037(A)(2), the Department indicates that A.R.S. Title 36, Chapter 21.1. Article 2 and A.R.S. § 36-2212 specifically provide for this type of authorization.

10. Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?

Yes. In 2012, the Department indicated that it planned to amend the rules by December 31, 2016. Sections 901, 902, 1002, 1003, and 1004 were revised in a 2013 exempt rulemaking though the Department has not yet addressed concerns identified for other rules.

Conclusion

As noted above, the Department intends to submit a Notice of Final Rulemaking for Council approval by December 2022. The report meets the requirements of A.R.S. § 41-1056 and R1-6-301, and this analyst recommends that the report be approved.



**GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M**

MEETING DATE: July 6, 2017

AGENDA ITEM: E-11

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : June 20, 2017

SUBJECT: DEPARTMENT OF HEALTH SERVICES (F-17-0709)
Title 9, Chapter 25, Article 9, Ground Ambulance Certificate of Necessity; Article 10, Ground Ambulance Vehicle Registration; Article 11, Ground Ambulance Service General Public Rates and Charges, Contracts

I reviewed the five-year-review report's economic, small business, and consumer impact comparison for compliance with A.R.S. § 41-1056 and make the following comments.

1. Economic Impact Comparison

At the time of the 2001 rulemaking on these rules, there were 83 ground ambulance services operating in Arizona. 20 were private for-profit businesses, 11 were private non-profit businesses, and 52 were owned or operated by political subdivisions. As of April 15, 2017, there were 101 ground ambulance services operating in Arizona. 25 are private for-profit businesses; five are private non-profit businesses, 21 are municipal ground ambulance services, 48 are fire districts established under A.R.S. Title 48, Chapter 5; one is operated by a hospital, and one is operated by a county.

In its 2001 EIS, the Department estimated that the benefits to the Department would be minimal to moderate, and the costs to the Department would be minimal to moderate. The costs to political subdivisions and private businesses would be minimal to moderate and the benefits would range from moderate to substantial. The Department believes that the anticipated costs accurately reflect the actual costs, with the exception of moderate costs incurred by stakeholders during the rulemaking process.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

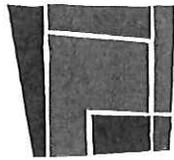
The Department has determined that some of the rules require amendment in order for them to impose the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?

No analysis was submitted to the Department by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states.

4. Conclusion

Staff finds that the report complies with A.R.S. § 41-1056 and recommends approval.



ARIZONA DEPARTMENT
OF HEALTH SERVICES

May 19, 2017

Nicole O. Colyer, Chairperson
Governor's Regulatory Review Council
Arizona Department of Administration
100 N. 15th Avenue, Suite 402
Phoenix, AZ 85007

RE: Report for A.A.C. Title 9, Chapter 25, Articles 9, 10, and 11 of Emergency Medical Services

Dear Ms. Colyer:

According to the five-year-review report schedule of the Governor's Regulatory Review Council (Council), a report for A.A.C. Title 9, Chapter 25 is due to the Council no later than June 30, 2017. The Arizona Department of Health Services (Department) has reviewed 9 A.A.C. 25, Articles 9, 10, and 11, and is enclosing a report to the Council for these rules.

The Department believes that this report complies with the requirements of A.R.S. § 41-1056. A five-year-review summary, information that is identical for all the rules, information for individual rules, the rules reviewed, the general and specific authority, an economic impact statement, and a comment on the rules are included in the package. As described in the report, the Department plans to amend the rules in 9 A.A.C. 25, Articles 9, 10, and 11 by December 31, 2022.

The Department certifies that it is in compliance with A.R.S. § 41-1091.

If you need any further information, please contact me at (602) 542-1020.

Sincerely,

A handwritten signature in black ink, appearing to read 'RL' followed by a stylized flourish.

Robert Lane
Director's Designee

RL:rms
Enclosures

Douglas A. Ducey | Governor Cara M. Christ, MD, MS | Director



ARIZONA DEPARTMENT OF HEALTH SERVICES

FIVE-YEAR-REVIEW REPORT

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES

EMERGENCY MEDICAL SERVICES

ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY

ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION

ARTICLE 11. GROUND AMBULANCE SERVICE GENERAL PUBLIC

RATES AND CHARGES; CONTRACTS

May 2017

FIVE-YEAR-REVIEW REPORT
TITLE 9. HEALTH SERVICES
CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES
ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY
ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION
ARTICLE 11. GROUND AMBULANCE SERVICE GENERAL PUBLIC RATES AND
CHARGES; CONTRACTS

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FIVE-YEAR-REVIEW REPORT
TITLE 9. HEALTH SERVICES
CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES
ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY
ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION
ARTICLE 11. GROUND AMBULANCE SERVICE GENERAL PUBLIC RATES AND
CHARGES; CONTRACTS

FIVE-YEAR-REVIEW SUMMARY

Arizona Revised Statutes (A.R.S.) §§ 36-2202(A)(3) and (4) and 36-2209(A)(2) require the Arizona Department of Health Services (Department) to adopt standards and criteria pertaining to the quality of emergency care, rules necessary for the operation of emergency medical services, and rules for carrying out the purposes of A.R.S. Title 36, Chapter 21.1. A.R.S. § 36-2202(A)(5) requires the Department to adopt “reasonable medical equipment, supply, staffing and safety standards, criteria and procedures for issuance of a certificate of registration to operate an ambulance,” including ground ambulances. A.R.S. § 36-2212 prohibits a person from operating an ambulance in Arizona unless the ambulance has a certificate of registration and complies with A.R.S. Title 36, Chapter 21.1, Article 1 and the rules, standards, and criteria adopted pursuant to the Article. A.R.S. Title 36, Chapter 21.1, Article 2 provides specific authority for the regulation of ambulances and ambulance services. The Department has implemented these statutes in Arizona Administrative Code (A.A.C.) Title 9, Chapter 25, Articles 9, 10, and 11. Except for the Exhibits in Article 9, the rules in these Articles were adopted in February 2001. In an exempt rulemaking in 2013, the rules in R9-25-901, R9-25-902, R9-25-1002, R9-25-1003, and R9-25-1004 were revised to comply with Laws 2012, Ch. 94. Exhibits 9A and 9B were originally renumbered into Article 9 in June 2006 and renumbered as Exhibits 9A and 9B as part of the 2013 rulemaking.

The rules in 9 A.A.C. 25, Article 9 establish the standards and processes for certificates of necessity, including initial and renewal applications, terms and transferability of a certificate of necessity, determining public necessity, amending a certificate of necessity, insurance requirements, record and reporting requirements, and disciplinary actions. The rules also include considerations for determining response times, response codes, and response-time tolerances for all or part of a service area; financial information required to be reported; and requirements associated with transport and service areas. The rules in 9 A.A.C. 25, Article 10 establish the standards and processes for ground ambulance registration,

including initial and renewal applications; minimum standards for ground ambulance vehicles, equipment and supplies, and staffing; and inspections. The rules in 9 A.A.C. 25, Article 11 specify the requirements for establishing or adjusting general public rates; applying for approval of ground ambulance service contracts, subscription service contracts, and contract rates for interfacility transports or convalescent transports; considering rate of return on gross revenue and proposed mileage rates; and implementation of rates and charges.

After an analysis of the rules in 9 A.A.C. 25, Articles 9, 10, and 11, the Department has determined that all but three of the rules are effective or mostly effective; all but four of the rules are consistent with statutes and rules; all but one of the rules are enforced as written; and all but three of the rules are clear, concise, and understandable or mostly clear, concise, and understandable. One written criticism of the rules has been received by the Department. Because of the level of stakeholder engagement anticipated during a rulemaking for these rules, the Department believes that the rulemaking could take over three years to complete. Since the same stakeholders may be participating in another rulemaking to be begun before this rulemaking, the Department plans to submit a Notice of Final Rulemaking to the Governor's Regulatory Review Council (Council) by December 31, 2022.

INFORMATION THAT IS IDENTICAL FOR ALL OF THE RULES

1. Authorization of the rule by existing statute

The general statutory authority for the rules in 9 A.A.C. 25, Articles 9, 10, and 11 are A.R.S. §§ 36-136(A)(7), 36-136(F), and 36-2202(A)(4).

A specific statutory authority for the rules in 9 A.A.C. 25, Article 9 and Article 11 is A.R.S. § 36-2232.

A specific statutory authority for the rules in 9 A.A.C. 25, Article 10 is A.R.S. § 36-2202(A)(5).

2. The purpose of the rule

The purpose of the rules in 9 A.A.C. 25, Article 9 is to specify standards and processes for certificates of necessity for ground ambulance services.

The purpose of the rules in 9 A.A.C. 25, Article 10 is to establish standards and processes for ground ambulance registration.

The purpose of the rules in 9 A.A.C. 25, Article 11 is to specify requirements related to ground ambulance service rates and charges and for related contracts.

4. Analysis of consistency with state and federal statutes and rules

Federal statutes and rules do not apply to the rules in 9 A.A.C. 25, Articles 9, 10, and 11.

Except as described in R9-25-902, R9-25-906, R9-25-908, and R9-25-912 in Article 9 and R9-25-1005 in Article 10, the rules are consistent with state statutes and rules.

5. Status of enforcement of the rule

Except as described R9-25-902, the rules in 9 A.A.C. 25, Articles 9, 10, and 11 are enforced as written without difficulty by the Department.

7. Summary of the written criticisms of the rule received within the last five years

Except for one comment about R9-25-1107 and R9-25-1108, the Department has not received any written criticisms of the rules in the past five years.

8. Economic, small business, and consumer impact comparison

The rules in Articles 9, 10, and 11 were adopted by final rulemaking, effective February 13, 2001, to establish rules related to initial and renewal certificates of necessity, ground ambulance registration, and ground ambulance service rates, contracts, subscription service, other charges, and invoicing. At the time of the rulemaking, there were 83 ground ambulance services operating in Arizona. Of these, 20 were private, for-profit businesses, 11 were private, non-profit businesses, and 52 were owned or operated by political subdivisions. As of April 15, 2017, there were 101 ground ambulance services operating in Arizona. Of these, 25 are private, for-profit businesses; five are private, non-profit businesses; 21 are municipal ground ambulance services;

48 are fire districts established under A.R.S. Title 48, Chapter 5; one is operated by a hospital; and one is operated by a county.

An economic, small business, and consumer impact statement (EIS) was submitted to the Governor's Regulatory Review Council (Council) as part of the Notice of Final Rulemaking package for the 2001 rulemaking. Although not stated in the EIS, the Department assumes that annual cost/revenues were designated as "minimal" when less than \$1,000.00; "moderate" when between \$1,000.00 and \$10,000.00; "substantial" when \$10,000.00 or more; and "significant" when meaningful or important, but not readily subject to quantification.

The EIS for the rulemaking stated that the Department would incur minimal costs for the additional time to evaluate an application for a certificate of necessity, provision of ALS services, or transfer of a certificate of necessity; to determine public necessity; and to provide guidelines for determining response times, response codes, response time tolerances, and rate of return on gross revenue. The EIS also stated that the Department would incur minimal-to-moderate costs to take disciplinary action against a certificate holder. The Department was believed to receive a minimal benefit from the new application rules and from providing guidelines for determining response times, response codes, response time tolerances, and rate of return on gross revenue; minimal-to-moderate benefit from taking disciplinary action against a certificate holder; and moderate benefit from a reduction in staff time for receiving, filing, and storing provider records.

The Department anticipated that political subdivisions and private businesses would incur minimal costs for the additional time to submit an application for an initial, renewal, or amended certificate of necessity or for provision of ALS services; minimal-to-moderate costs related to insurance coverage; moderate costs to comply with minimal standards for ground ambulance vehicles; and moderate-to-substantial costs related to minimal standards for medical equipment on ground ambulance vehicles. The EIS also stated that the Department believed that political subdivisions and private businesses would receive a minimal benefit from having consolidated application rules; minimal-to-moderate benefit from eliminating a requirement to submit monthly dispatch logs and other records to the Department; moderate benefit from having disciplinary action guidelines and exceptions to transport requirements; and moderate-to-substantial benefit from eliminating requirements to carry some medical supplies and from allowing the assessment of rates for multiple-patient transport and standby waiting times. Private businesses were also expected to receive a moderate-to-substantial benefit from receiving a minimum 7% rate of return from general public rates.

The Department believes the costs and benefits identified in this EIS are generally consistent with the actual costs and benefits of the rules, but do not include estimates for the costs

incurred by stakeholders to participate in the rulemaking process. At the time of the rulemaking, these costs may have been moderate.

As part of the 2013 exempt rulemaking, the rules in R9-25-901, R9-25-902, Exhibits 9A and 9B, R9-25-1002, R9-25-1003, and R9-25-1004 were revised to comply with Laws 2012, Ch. 94. Although this rulemaking resulted in modest changes to Articles 9 and 10, and none to Article 11, a large group of stakeholders participated in the 2013 rulemaking, lengthening the process and incurring costs for both the Department and the stakeholders. In Article 9, the Department removed unnecessary definitions from R9-25-901; clarified that the application in R9-25-902 was to be submitted in a Department-provided format, added requirements for an e-mail address and for the signature to be dated, and corrected a cross-reference; and in the Exhibits, renamed the Exhibits to include the Article number, corrected the Department's address, and corrected the terminology for EMCTs. The Department believes the changes in Article 9 caused at most minimal additional costs and provided a significant benefit to all stakeholders. In R9-25-1002, minimum standards for ground ambulance vehicles were updated to require that interior patient compartment wall and floor coverings were in good repair, capable of being disinfected, and maintained in a sanitary manner and that there be at least two means of egress from the patient compartment. In R9-25-1003, minimum standards for equipment and supplies for ground ambulance vehicles were updated to reflect the different scopes of practice of the new EMCT classifications, and a cross-reference was corrected in R9-25-1004. The Department believes that most, if not all, ground ambulance services already complied with the new requirements in R9-25-1002 to protect the health and safety of both the patients served by the ground ambulance service and the EMCTs working for the ground ambulance service. For a ground ambulance service that did not, the Department estimates that the ground ambulance service could have incurred a minimal-to-substantial cost per ground ambulance vehicle to comply with these requirements. The updates of the minimum standards for equipment and supplies for ground ambulance vehicles in R9-25-1003 were caused by the statutory change to EMCT classifications and the resulting changes in scopes of practice. The Department estimates that a ground ambulance service could have incurred a minimal-to-substantial cost per ground ambulance vehicle to comply with these updated equipment requirements. A patient being transported by the ground ambulance service and the patient's family and health insurance carrier, and the general public may receive a significant benefit from increased patient safety.

9. **Summary of business competitiveness analyses of the rules**

The Department did not receive a business competitiveness analysis of the rules in the last five years.

10. Status of the completion of action indicated in the previous five-year-review report

In the 2012 Five-Year-Review Report, the Department stated that the Department planned to address concerns described in the report and to simplify and streamline the requirements in the rules for ground ambulance services. The Department planned to amend the rules in Articles 9, 10, and 11 and submit a Notice of Final Rulemaking to the Governor's Regulatory Review Council (Council) by December 31, 2016. In 2013, the Department addressed some of the concerns in a rulemaking amending the rules in 9 A.A.C. 25 to comply with statutory changes made in Laws 2012, Ch. 94, filing a Notice of Exempt Rulemaking by December 31, 2013. The Department has not yet addressed other concerns, as described in this report.

12. Analysis of stringency compared to federal laws

Federal laws do not apply to the regulation of ground ambulance services, which are wholly regulated according to state statutes.

13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with section 41-1037

The rules require the issuance of a specific agency authorization, which is authorized by A.R.S. § 36-2212 and Title 36, Chapter 21.1, Article 2, so a general permit is not applicable.

14. Proposed course of action

The Department plans to amend the rules in 9 A.A.C. 25, Articles 9, 10, and 11 to address concerns described in this report and make other changes suggested by stakeholders during a rulemaking. Because of the level of stakeholder engagement anticipated during the rulemaking, the Department believes that a rulemaking could take over three years to complete and cannot begin until after the rulemaking for air ambulance services, regulated under 9 A.A.C. 25, Articles 7 and 8, is close to completion since the same staff would be involved in both rulemakings and many of the same stakeholders would participate. Therefore, the Department plans to submit a Notice of Final Rulemaking to the Governor's Regulatory Review Council (Council) by December 31, 2022.

INFORMATION FOR INDIVIDUAL RULES
ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY

R9-25-901. Definitions (A.R.S. § 36-2202 (A))

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2202(A) as additional specific authority.

2. Objective

The objective of the rule is to define terms used in Articles 9, 10, and 11 to assist the reader in understanding the requirements of the Articles.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective but could be improved by defining “change in ownership” to account for publicly traded corporations in which the sale or transfer of stock may not influence the controlling persons of the corporation and so the definition is not as subjective as in subsection (9)(c). The definition of “gross revenue” could be amended since it provides an example of how the figure denoted by the term is calculated rather than a definition of what the term means.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable but could be improved by clarifying the term “ground ambulance service” because the term is used in the definitions of “ground ambulance service contract,” “indirect costs,” “needs assessment,” and “type of ground ambulance service” and in other rules throughout the Article to mean the actual service provided, which is inconsistent with the definition of “ground ambulance service” in the rule, as meaning a person. In the definition of “level of service,” the term appears to be used both ways. The definition of “minor defect” could be clearer because the condition of being without any problem could be included. In the definition of “suburban area,” the question of whether the population density description is for the “urban area” or the “geographic region” could be clearer. The conciseness of the definition of “substandard performance” could be improved because not meeting the requirements in Article 10 in subsection (46)(c) would be included in noncompliance with 9 A.A.C. 25 in subsection (46)(a). The definitions of “Ambulance Revenue and Cost Report” and “gross revenue” should also be corrected to refer to Exhibits 9A and 9B.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-902. Application for an Initial Certificate of Necessity; Provision of ALS Services; Transfer of a Certificate of Necessity (A.R.S. §§ 36-2204, 36-2232, 36-2233(B), 36-2236(A) and (B), 36-2240)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2204, 36-2233, 36-2236, and 36-2240 as additional specific authority.

2. Objective

The objectives of the rule are to establish application requirements and the process for:

- a. Applying for an initial certificate of necessity,
- b. Applying to provide ALS, and
- c. Requesting a transfer of a certificate of necessity.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective in achieving its objectives but could be improved if the application packet required information about any other name by which the entity “ground ambulance service” was known. The rule could be more effective if the rule required, as part of an application packet for an initial certificate of necessity, the submission of an applicant’s organizational documents, such as articles of incorporation; an application packet for a certificate of registration for each ground ambulance vehicle to be operated by the ground ambulance service under the certificate of necessity; and documentation to comply with A.R.S. § 41-1080. The rule could also be more effective if the rule were amended to include as part of the application packet in subsection (A) the submission of: fees, rather than requiring the fees as a separate submission requirement under subsection (D); the application for establishing initial public rates, specified in R9-25-1101, rather than a “statement of the proposed general public rates”; and the list of items that a certificate holder proposes to charge patients, specified in R9-25-1109, rather than a “statement of the proposed charges.” In addition, the requirement in subsection (A)(4) for the submission of “any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents” could also be replaced with a requirement for stating whether supplementary requests for information can be made by the Department during a substantive review, since these documents are unknown to an applicant at the time of the application and could be requested during the substantive review period specified in Article 12. The rule could also be more effective if subsection (E) included a

reference to R9-25-903, which includes criteria to be used by the Department in deciding whether or not to issue a certificate of necessity.

4. Analysis of consistency with state and federal statutes and rules

The rule is not consistent with A.R.S. § 36-2240(3) because the rule does not require an applicant for an initial certificate of necessity to pay the \$200 fee per ambulance required by that statute. Subsection (A)(1)(c) of the rule is inconsistent with R9-25-201 and R9-25-202, which do not require that administrative medical direction and on-line medical direction be provided through affiliation with an ALS base hospital or centralized medical communications center. Otherwise, the rule is consistent with state statutes and rules.

5. Status of enforcement of the rule

The rule is enforced consistent with A.R.S. §§ 36-2240(3) and 41-1080 and R9-25-201 and R9-25-202.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable but could be improved by clarifying subsection (A)(1)(c) to use the term “ALS base hospital,” which is the term defined in R9-25-101, and subsection (A)(1)(m) to use the term “level of service,” which is the term defined in R9-25-901. The rule could be made clearer by using the term “ground ambulance service” in a manner consistent with the definition in R9-25-901. The clarity of the rule could also be improved if wording similar to that used in R9-25-1101(A)(5) or R9-25-1102(B)(9) replaced the phrase “financial agreement for all capital acquisitions exceeding \$5,000” in subsection (A)(3)(c). The rule could also be improved by clarifying that the “person wanting to transfer the certificate of necessity” refers to the current certificate holder and by defining or describing the terms “dispatch center,” “business representative,” and “designated manager.” The rule could also be improved by removing subsection (A)(1)(n)(ii) and correcting several grammatical errors.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Because of the issues described in paragraphs 3, 4, and 6 of the analysis of this rule, the rule does not impose the least burden and costs on persons regulated by the rule.

R9-25-903. Determining Public Necessity (A.R.S. § 36-2233(B)(2))

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2233(B)(2) as additional specific authority.

2. **Objective**

The objective of the rule is to establish the factors that the Director must consider when determining whether public necessity requires the issuance of an initial or amended certificate of necessity to an applicant.

3. **Analysis of effectiveness in achieving the objective**

The rule is effective in achieving its objective.

6. **Analysis of clarity, conciseness, and understandability**

The rule is mostly clear, concise, and understandable but could be improved by using the term “ground ambulance service” in a manner consistent with the definition in R9-25-901. The rule could also be clearer if the term “population demographics” were defined or described. In addition, the rule could be clearer if subsection (A) referenced A.R.S. § 36-2233 or if standards related to the approval of an initial certificate of necessity were established.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective**

Despite the minor clarifications that could be made, as described in paragraph 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-904. Application for Renewal of a Certificate of Necessity (A.R.S. §§ 36-2233, 36-2235, 36-2240)

1. **Authorization of the rule by existing statute**

The rule has A.R.S. §§ 36-2233, 36-2235, and 36-2240 as additional specific authority.

2. **Objective**

The objectives of the rule are to establish:

- a. Requirements for applying for renewal of a certificate of necessity, and
- b. Consequences related to failure to file for renewal before the expiration of a certificate of necessity.

3. **Analysis of effectiveness in achieving the objective**

The rule is mostly effective in achieving its objectives but could be improved by restructuring subsections (B) and (C) to make clear that the Department is not issuing an approval to commence operations but is considering an application for an initial application. The rule could also be more effective if the required insurance coverage included not only the automobile

liability insurance and professional liability insurance required for the ground ambulance service under A.R.S. § 36-2237(A) and R9-25-902(A)(3)(h) but also the professional liability insurance for ALS personnel, for a ground ambulance service providing ALS, as required for an initial application in R9-25-902(B)(2). The rule could also be more effective if the renewal application required the statement specified in R9-25-902(A)(1)(o) and the date of the applicant's signature. In addition, the rule could be improved by including a standard for approval of a renewal of a certificate of necessity.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable but could be improved by clarifying the meaning of the term "timely" in subsections (B) and (C) and correcting minor grammatical errors.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-905. Application for Amendment of a Certificate of Necessity (A.R.S. §§ 36-2232(A)(4), 36-2240)

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2240 as additional specific authority.

2. Objective

The objectives of the rule are to establish the requirements and process for applying for an amendment of a certificate of necessity.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective in achieving its objective but could be more effective by amending subsections (A) and (B) to better tailor the documentation submitted by a certificate holder in support of the request to amend a certificate of necessity to the type of change being requested. For example, a change in the legal name of the certificate holder could be supported by documentation of the name change by the Corporation Commission, to distinguish it from a change in ownership, and may require the submission of new documentation of insurance if the required insurance had been issued under the name being changed. Similarly, a change in address may not require a description of the communication equipment being used, the make and year of

each ground ambulance vehicle, or the number of ambulance attendants, currently required as elements of R9-25-902(A)(1). A request to change response times could be supported by not only the proposed response times, response codes, and response-time tolerances currently required, but also by an analysis of actual response times compared with the response times associated with the certificate of necessity. In addition, the rule could be more effective if the requirement in subsection (B)(5) for the submission of “any other information or documents requested by the Director to clarify incomplete or ambiguous information or documents” were replaced with a requirement for stating whether supplementary requests for information can be made by the Department during a substantive review, since these documents are unknown to an applicant at the time of the application and could be requested during the substantive review period specified in Article 12. The rule could also be more effective if subsection (C) included a reference to R9-25-903 and R9-25-906, which includes criteria to be used by the Department in deciding whether or not to amend a certificate of necessity and determine response times, response codes, and response-time tolerances, respectively.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective**

Because some of the issues described in paragraph 3 of the analysis of this rule would decrease the burden while others could increase the burden, the rule does impose the least burden and costs on persons regulated by the rule but could be improved to better achieve the underlying regulatory objective.

R9-25-906. Determining Response Times, Response Codes, and Response-Time Tolerances for Certificates of Necessity and Provision of ALS Services (A.R.S. §§ 36-2232, 36-2233)

1. **Authorization of the rule by existing statute**

The rule has A.R.S. § 36-2233 as additional specific authority.

2. **Objective**

The objective of the rule is to establish the factors that the Director may consider in determining response times, response codes, and response-time tolerances.

3. **Analysis of effectiveness in achieving the objective**

The rule is effective in achieving its objective but could be improved by referencing or including in the rule the factors listed in A.R.S. § 36-2232(G) to be considered in determining response-time tolerances.

4. Analysis of consistency with state and federal statutes and rules

Although the factors listed in A.R.S. § 36-2232(G) to be considered in determining response-time tolerances are not referenced or included in the rule, the rule is consistent with state statutes and rules.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by clarifying the meaning of the term “medical direction authority” in subsection (4).

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-907. Observance of Service Area; Exceptions (A.R.S. § 36-2232)

2. Objective

The objective of the rule is to establish the general prohibition on a certificate holder’s providing EMS or transport in an area outside of the area covered by the certificate holder’s certificate of necessity, with two listed exceptions.

3. Analysis of effectiveness in achieving the objective

The rule is not effective in achieving its objective because subsection (1) of the rule is confusing and the rule does not capture other conditions where a certificate holder should or may be ethically bound to provide EMS outside the certificate holder’s service area. The Department has issued two substantive policy statements in the past few years to specify the Department’s interpretation of the rule.

6. Analysis of clarity, conciseness, and understandability

The rule is not clear, concise, and understandable because the term “service area’s dispatch” is undefined. Without this term being defined, it is unclear who may authorize EMS or transport in an area other than the service area identified in the certificate holder’s certificate of necessity and may lead to a conflict with the statutory intent in establishing certificates of necessity.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective**

Because of the issues described in paragraphs 3 and 6 of the analysis of this rule, the rule does not impose the least burden and costs on persons regulated by the rule.

R9-25-908. Transport Requirements; Exceptions (A.R.S. §§ 36-2224, 36-2232)

1. **Authorization of the rule by existing statute**

The rule has A.R.S. § 36-2224 as additional specific authority.

2. **Objective**

The objective of the rule is to require a certificate holder to transport a patient unless at least one of the specified circumstances exists.

3. **Analysis of effectiveness in achieving the objective**

The rule is not effective in achieving its objective because the rule combines conditions under which a certificate holder shall not transport a patient with conditions under which a certificate holder may, but is not required to, transport a patient. For example, the rule appears to prevent a certificate holder from contracting to provide an interfacility transport of a patient from a hospital in Phoenix to another hospital in Tucson, which may provide the same level of care but is closer to the patient's family, or to transport a patient who does not qualify for Medicare Part B reimbursement but who can otherwise pay for the transport.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is not consistent with A.R.S. § 36-2205(E) and R9-25-504(B), which provide for patient choice. Otherwise, the rule is consistent with state statutes and rules.

6. **Analysis of clarity, conciseness, and understandability**

The rule is not clear as to whether the rule refers only to transport related to EMS or to any type of transport. The rule also uses the undefined term "medical direction authority" in subsection (3).

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective**

Because of the issues described in paragraphs 3, 4, and 6 of the analysis of this rule, the rule does not impose the least burden and costs on persons regulated by the rule.

R9-25-909. Certificate of Insurance or Self-Insurance (A.R.S. §§ 36-2232, 36-2233, 36-2237)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2233 and 36-2237 as additional specific authority.

2. Objective

The objective of the rule is to establish the minimum standards for the insurance coverage or evidence of financial responsibility required under A.R.S. § 36-2237(A).

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective but could be improved by removing or amending subsection (B), which duplicates requirements in R9-25-902(A)(3)(h) and R9-25-904(A)(2). In addition, the Department could consider whether the minimum insurance coverage levels should be increased. The rule also does not make a distinction between professional liability insurance for the ground ambulance service and the professional liability insurance for ALS personnel that is required of ground ambulance services providing ALS but that is not required for personnel of a ground ambulance service only providing BLS.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraph 3, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-910. Record and Reporting Requirements (A.R.S. §§ 36-2232, 36-2241, 36-2246)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2241 and 36-2246 as additional specific authority.

2. Objective

The objectives of the rule are to require a certificate holder to:

- a. Submit financial data annually, and
- b. Maintain and give the Department access to specified records.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective in achieving its objectives but could be improved by specifying the length of time, consistent with A.R.S. § 36-2241, a certificate holder is required to maintain records. The rule could also be improved if the rule specified under what circumstances Exhibit 9A or Exhibit 9B is the “appropriate” Ambulance Revenue and Cost Report to be used.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved if subsection (B)(6) were amended to specify the maintenance of prehospital incident history reports, required under Article 2, since the documents specified and Sections cited in subsection (B)(6) no longer exist.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-911. Ground Ambulance Service Advertising (A.R.S. § 36-2232)

2. Objective

The objectives of the rule are to prevent a certificate holder from:

- a. Providing false or misleading advertising, or
- b. Circumventing the use by patients of the 9-1-1 or similarly designated emergency telephone number.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by using the defined terms “type of ground ambulance service” and “level of service” rather than “type or level of ground ambulance service.”

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

The rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-912. Disciplinary Action (A.R.S. §§ 36-2244, 36-2245)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2244 and 36-2245 as additional specific authority.

2. Objective

The objectives of the rule are to establish the:

- a. Disciplinary actions that may be taken against the holder of a certificate of necessity,
- b. Circumstances under which disciplinary actions may be taken, and
- c. Criteria that the Department must consider when determining what action to take under A.R.S. § 36-2245.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective in achieving its objectives but does not provide a regulated person with notice of the immediate suspension allowed under A.R.S. §§ 36-2234(L) and 41-1092.11(B). Nor does the rule address the “other disciplinary action” that may be taken.

4. Analysis of consistency with state and federal statutes and rules

The rule is not consistent with A.R.S. §§ 36-2234(L) and 41-1092.11(B), which allow for the immediate suspension of a certificate of necessity, without notice and a hearing, in case of emergency when there is a potential threat to the public health and safety. Otherwise, the rule is consistent with state statutes and rules.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable but could be improved by removing passive language and correcting the grammar in subsection (A). The rule could also be clearer if the term “disciplinary action” were replaced with the term “enforcement action,” which is used in R9-25-211, R9-25-317, R9-25-411, R9-25-709, and R9-25-806 in the same context.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

Exhibit 9A. Ambulance Revenue and Cost Report, General Information and Certification

2. Objective

The objective of the rule is to establish the financial data that must be filed with the Department as part of every application for an initial certificate of necessity and on an annual basis by a certificate holder that is not a fire district or small rural company.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved if terms, such as “LIFO,” “FIFO,” “loaded billable miles,” “subsidized patients,” “non-subsidized patients,” “subscription service direct selling,” and “allocation percentage,” were defined. However, since these terms have been used and understood by the regulated community for over 10 years, their meaning is well-understood, and their use without definition is not problematic.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

The rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

Exhibit 9B. Ambulance Revenue and Cost Report, Fire District and Small Rural Company

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2246 as additional specific authority.

2. Objective

The objective of the rule is to establish the financial data that must be filed with the Department as part of every application for an initial certificate of necessity and on an annual basis by a certificate holder that is a fire district or small rural company.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved if terms, such as “small rural company,” “loaded billable miles,” and “IEMT,” were defined. However, since these terms have been used and understood by the regulated community for over 10 years, their meaning is well-understood, and their use without definition is not problematic.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons

regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

The rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION

R9-25-1001. Initial and Renewal Application for a Certificate of Registration (A.R.S. §§ 36-2212, 36-2232, 36-2240)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2212, 36-2232, and 36-2240 as additional specific authority.

2. Objective

The objectives of the rule are to establish the:

- a. Requirements for applying for an initial or renewal certificate of registration for a ground ambulance vehicle,
- b. Inspection requirements related to obtaining an initial or renewal certificate of registration, and
- c. Process for obtaining a certificate of registration for a ground ambulance vehicle.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objectives but could be improved by requiring other names by which the applicant does business, the title of the individual signing the application, and the date the application was signed. In addition, the rule could be more effective if subsection (E) included either criteria for approving an application or a reference to the criteria to be used by the Department in deciding whether or not to issue a certificate of registration, thus providing notice to a regulated person.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved if grammatical errors were corrected and subsection (A)(4) specified that, for a renewal, the identification number of the certificate of necessity is required.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-1002. Minimum Standards for Ground Ambulance Vehicles (A.R.S. § 36-2202(A)(5))

2. Objective

The objective of the rule is to establish minimum physical, mechanical, and equipment standards for a ground ambulance vehicle.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective but could be more effective if subsection (8) included requirements in A.R.S. § 28-955 and subsection (22) clarified who may supply an inspection tag or allowed for a disposable fire extinguisher.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved if the word “system” were added to the phrase “power-steering that is” in subsection (14)(b) and if subsection (36) were removed as duplicating the requirement in R9-25-1003(A)(31)(f).

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-1003. Minimum Equipment and Supplies for Ground Ambulance Vehicles (A.R.S. § 36-2202(A)(5))

2. Objective

The objective of the rule is to establish minimum requirements for medical equipment, medical supplies, and communications equipment for a ground ambulance vehicle.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable but could be improved if the duplication of the requirements in subsection (A)(37)(f) and R9-25-1002(36) were addressed. The terms “crew” in subsection (C) and “medical direction authority” in subsections (D)(2) and (D)(3) could also be clarified. Unless the phrase “in the driver’s compartment” were added in subsection (D)(2), it is unclear how subsections (D)(2) and (D)(3) differ. The rule could also be more understandable if subsection (A)(37)(c) were amended to more clearly specify the weight-carrying capacity of a stretcher.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective**

Despite the minor changes that could be made, as described in paragraph 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-1004. Minimum Staffing Requirements for Ground Ambulance Vehicles (A.R.S. §§ 36-2201(4), 36-2202(A)(5))

1. **Authorization of the rule by existing statute**

The rule has A.R.S. § 36-2201 as additional specific authority.

2. **Objective**

The objective of the rule is to establish minimum staffing requirements for a ground ambulance vehicle.

3. **Analysis of effectiveness in achieving the objective**

The rule is effective in achieving its objective.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective**

The rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-1005. Ground Ambulance Vehicle Inspection; Major and Minor Defects (A.R.S. §§ 36-2202(A)(5), 36-2212, 36-2232, 36-2234)

1. **Authorization of the rule by existing statute**

The rule has A.R.S. §§ 36-2212, 36-2232, and 36-2234 as additional specific authority.

2. **Objective**

The objectives of the rule are to:

- a. Establish requirements related to the inspection of ground ambulance vehicles,
- b. Classify defects as major or minor, and

c. Specify what a certificate holder is required to do when an inspection reveals a major defect or minor defect on a ground ambulance vehicle.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objectives but could be improved if subsection (H) also required documentation of the repair being completed.

4. Analysis of consistency with state and federal statutes and rules

Because of changes made to R9-25-1002 in the 2013 rulemaking, some cross-references to that rule are incorrect. For example, the cross-reference to R9-25-1002(6) should be to subsection (7), the cross-reference to R9-25-1002(36) should be to subsection (38), and the cross-reference to R9-25-1002(39) should be to subsection (41). Otherwise, the rule is consistent with state statutes and rules.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved if subsection (G) were amended to remove passive language.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-1006. Ground Ambulance Vehicle Identification (A.R.S. §§ 36-2212, 36-2232)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2212 and 36-2232 as additional specific authority.

2. Objective

The objective of the rule is to establish requirements related to identification marks on the exterior of ground ambulance vehicles and corresponding staffing.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objective but the components of the rule could be more effective if the requirement in subsection (A) were included in R9-25-1002, and the requirements in subsection (B) were included in R9-25-1003 and R9-25-1004.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable but could be improved by using the defined term “level of service” rather than “level of ground ambulance service,” replacing the numeral “6” with the word “six,” and removing passive language.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective**

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

**ARTICLE 11. GROUND AMBULANCE SERVICE GENERAL PUBLIC RATES AND
CHARGES; CONTRACTS**

R9-25-1101. Application for Establishment of Initial General Public Rates (A.R.S. §§ 36-2232, 36-2239)

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2239 as additional specific authority.

2. Objective

The objective of the rule is to establish the requirements for applying for initial general public rates.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective in achieving its objective but could be improved by specifying in subsection (A)(3) what period of time an Ambulance Revenue and Cost Report needed to cover, requiring in subsection (A)(4) a projected Ambulance Revenue and Cost Report, and requiring in subsection (A)(9) the date the attestation was signed. The rule could also be more effective if subsection (A)(3) specified under what circumstances financial statements should be submitted and under what circumstances an Ambulance Revenue and Cost Report should be submitted, rather than giving an applicant a choice of submitting either. In addition, the rule could be more effective if the requirement in subsection (A)(10) for the submission of “any other information or documents requested by the Director to clarify or complete the application” were replaced with a requirement for stating whether supplementary requests for information can be made by the Department during a substantive review, since these documents are unknown to an applicant at the time of the application and could be requested during the substantive review period specified in Article 12. The rule could also be more effective if subsection (B) included a reference to R9-25-1106 and R9-25-1107, which include criteria to be used by the Department in deciding whether or not to approve an initial general public rate.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable, but could be improved by specifying which Ambulance Revenue and Cost Report must be submitted, clarifying whether the list specified in subsection (A)(5) is the same list as required in R9-25-902(A)(3)(c), and correcting several minor grammatical errors.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons

regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-1102. Application for Adjustment of General Public Rates (A.R.S. §§ 36-2234, 36-2239)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2234 and 36-2239 as additional specific authority.

2. Objective

The objective of the rule is to establish the requirements for applying for an adjustment of a general public rate.

3. Analysis of effectiveness in achieving the objective

The rule is not effective in achieving its objective. The rule could be more effective if a certificate holder were required to include in the application the certificate of necessity number assigned by the Department to the certificate holder's certificate of necessity and the date the attestation was signed. The rule could also be more effective if subsection (B)(7) specified what period of time an Ambulance Revenue and Cost Report needed to cover, and subsection (B)(8) required a projected Ambulance Revenue and Cost Report rather than projected income statement and cash-flow statement. In addition, the rule could be more effective if the requirement in subsection (B)(14) for the submission of "any other information or documents requested by the Director to clarify or complete the application" were replaced with a requirement for stating whether supplementary requests for information can be made by the Department during a substantive review, since these documents are unknown to an applicant at the time of the application and could be requested during the substantive review period specified in Article 12. The rule could also be more effective if subsection (C) included a reference to R9-25-1106 and R9-25-1107, which include criteria to be used by the Department in deciding whether or not to approve an adjustment of a general public rate.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable, but could be improved by correcting several minor grammatical errors and removing subsection (B)(6) from the rule since the elements of a financial statement are included in the Ambulance Revenue and Cost Report, required in subsection (B)(7). Subsection (B)(7) could be clearer if it specified that the

Ambulance Revenue and Cost Report should cover a 24-month period, in compliance with A.R.S. § 36-2234(F).

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Because of the issues described in paragraphs 3 and 6 of the analysis of this rule, the rule does not impose the least burden and costs on persons regulated by the rule.

R9-25-1103. Application for a Contract Rate or Range of Rates Less than General Public Rates (A.R.S. §§ 36-2234(G) and (I), 36-2239)

1. Authorization of the rule by existing statute

The rule has A.R.S. §§ 36-2234 and 36-2239 as additional specific authority.

2. Objective

The objective of the rule is to establish the requirements for applying for a contract rate or range of rates less than the general public rate.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective in achieving its objective but could be more effective if a certificate holder were required to include in the application the certificate of necessity number assigned by the Department to the certificate holder's certificate of necessity. In addition, the rule could be more effective if subsection (B) included a reference to R9-25-1106 and R9-25-1107, which include criteria to be used by the Department in deciding whether or not to approve an application for a contract rate or range of rates less than the general public rate.

6. Analysis of clarity, conciseness, and understandability

The rule is not clear, concise, and understandable since the rule does not specify how "providing interfacility transports or convalescent transports" relates to applying for approval of a contract rate or range of rates. A certificate holder could charge the general public rate for these transports without receiving approval from the Department for a contract rate. The rule could also make clearer that submitting an application does not guarantee that an applicant will obtain the requested contract rate or range of rates. The rule is also not clear as to how the information required in subsection (A)(1)(d) differs from the documents required in R9-25-1102(B)(6) through (B)(9), included in subsection (A)(2).

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons

regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Because of the issues described in paragraphs 3 and 6 of the analysis of this rule, the rule does not impose the least burden and costs on persons regulated by the rule.

R9-25-1104. Ground Ambulance Service Contracts (A.R.S. §§ 36-2232, 36-2234(K))

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2234 as additional specific authority.

2. Objective

The objective of the rule is to establish the requirements for applying for approval of a ground ambulance service contract.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective in achieving its objective but could be more effective if a certificate holder were required to include in the cover letter the certificate of necessity number assigned by the Department to the certificate holder's certificate of necessity and the name of the other party to the contract. The rule could also be more effective if subsection (B) included a reference to R9-25-1106, R9-25-1107, and, if applicable, A.R.S. § 36-2234(K), which include criteria to be used by the Department in deciding whether or not to approve a ground ambulance service contract and review requirements. The rule could also be more effective if the rule specified that a contract may not be implemented until approved by the Department.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable but could be clearer if the rule specified whether a ground ambulance service contract may only be used for interfacility transports or convalescent transports, as implied by R9-25-1103, or whether EMS may also be provided under a service contract, and, if so, requirements for service contracts with health care institutions or other companies for interfacility transports or convalescent transports were separated from requirements for service contracts with political subdivisions for the provision of EMS services. The rule could also be clearer as to whether a proposed contract or a signed and executed contract must be submitted for approval. This lack of clarity resulted in the Department's issuance of a guidance document related to political subdivision contracts for ambulance service. The rule could also be improved if subsection (A) were restructured to conform to current rulemaking format and style requirements.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons

regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Because of the issues described in paragraphs 3 and 6 of the analysis of this rule, the rule does not impose the least burden and costs on persons regulated by the rule.

R9-25-1105. Application for Provision of Subscription Service or Establish a Subscription Service Rate (A.R.S. § 36-2232(A)(1))

2. Objective

The objectives of the rule are to establish the requirements for applying to:

- a. Provide subscription service,
- b. Establish a subscription service rate, or
- c. Obtain approval of a subscription service contract.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective in achieving its objectives, but the rule could be more effective if there were separate subsections to specify the requirements for the three objectives of the rule or if the objectives of the rule were amended. Subsection (A)(1) requires the submission of some information that is useful in determining a subscription service rate, but the rule does not require the name of the certificate holder or number assigned by the Department to the certificate of necessity.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable, but subsection (A)(2) could be clearer by specifying that the proposed subscription service contract is a template to be used with a multitude of subscribers.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-1106. Rate of Return Setting Considerations (A.R.S. §§ 36-2232, 36-2239)

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2239 as additional specific authority.

2. Objective

The objectives of the rule are to establish:

- a. The factors the Department will consider when determining the rate of return on gross revenue,
- b. How the Director will determine just, reasonable, and sufficient rates, and
- c. How the rate of return is calculated by the Department.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objectives but could be more effective if the factors listed in subsection (A) were linked to the information required in the Ambulance Revenue and Cost Report in Exhibits 9A and 9B. The rule could also be more effective if subsection (C) provided a cap on the rate of return.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable, but could be improved if terms used in the rule, such as “balance sheet,” “income statement,” “cash flow statement,” “variable and fixed costs,” “method of indirect cost allocation,” “reimbursable and non-reimbursable charges,” and “accrual method” were defined. However, since these terms have been used and understood by the regulated community for over 10 years, their meaning is well-understood, and their use without definition is not problematic. The references in subsection (D) should also be corrected to refer to Exhibits 9A and 9B.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-1107. Rate Calculation Factors (A.R.S. § 36-2232)

2. Objective

The objectives of the rule are to:

- a. Establish the factors the Department will consider when evaluating a proposed mileage rate, BLS rate, and ALS rate;
- b. Require the Department to adjust rates to maximize Medicare reimbursement; and
- c. Establish how the standby waiting rate is calculated by the Department.

3. **Analysis of effectiveness in achieving the objective**

The rule is effective in achieving its objectives but could be more effective if subsection (C) provided for the costs of additional professional insurance for ALS personnel, required in R9-25-902(B)(2), and if the method of determining the standing waiting rate in subsection (E) were assessed to determine if it was still appropriate.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable but could be improved if the factors listed in subsection (A) were linked to the information required in the Ambulance Revenue and Cost Report in Exhibits 9A and 9B.

7. **Summary of the written criticisms of the rule received within the last five years**

The Department has received one written criticism/comment of the rule in the past five years.

Comment: A comment was received expressing confusion about billing for standby waiting as the requirement in rule seems in conflict with how AHCCCS and other third party payers reimburse for services. The rules require the rate (in dollars per hour) to be calculated by dividing the BLS rate (the rate that an ambulance service is approved to charge for Basic Life Support services) by four and require a certificate holder to assess the rate in quarter-hour increments (R9-25-1108), but CMS (used by AHCCCS, Medicare, and other insurance companies) reimburses in half-hour increments.

Response: The Department has no authority for determining how AHCCCS reimburses for services or how CMS requires billing to be done. No other certificate holders appear to have an issue with the apparent inconsistency. However, the Department plans to address these concerns during the next rulemaking.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective**

Despite the minor changes that could be made, as described in paragraphs 3 and 6, and the confusion expressed by one stakeholder, as described in paragraph 7, the probable benefits of the rule outweigh the probable costs of the rule and rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-1108. Implementation of Rates and Charges (A.R.S. §§ 36-2232, 36-2239)

1. **Authorization of the rule by existing statute**

The rule has A.R.S. § 36-2239 as additional specific authority.

2. Objective

The objectives of the rule are to establish the requirements for:

- a. Assessing rates and charges, and
- b. Refunding a rate or charge.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving its objectives but could be more effective if the rule specified that under A.R.S. § 36-2239(D) a rate or charge is not effective and cannot be charged until approved by the Department. The rule could also be more effective if subsection (A)(2) allowed a ground ambulance service to calculate mileage using software designed for that purpose.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable, but could be improved by replacing the pronoun “its” in subsection (D) with the noun to which the pronoun refers.

7. Summary of the written criticisms of the rule received within the last five years

The Department has received one written criticism/comment of the rule in the past five years, which is described in paragraph 7 of the analysis for R9-25-1107, along with the Department’s response.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective

Despite the minor changes that could be made, as described in paragraphs 3 and 6, and the confusion expressed by one stakeholder, as described in paragraph 7, the probable benefits of the rule outweigh the probable costs of the rule and rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-1109. Charges (A.R.S. §§ 36-2232, 36-2239(D))

1. Authorization of the rule by existing statute

The rule has A.R.S. § 36-2239 as additional specific authority.

2. Objective

The objective of the rule is to require a certificate holder to submit a list of disposable supplies, medical supplies, medications, and oxygen-related costs for which a ground ambulance service

charges a patient, the proposed charges, and the effective date of the proposed charges before implementing the charge and whenever a charge is changed.

3. **Analysis of effectiveness in achieving the objective**

The rule is effective in achieving its objective.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable, but could be improved by clarifying that the Department does not approve the charges for disposable supplies, medical supplies, medications, and oxygen-related costs. The rule could also be improved if the rule were restructured to enhance clarity.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective**

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

R9-25-1110. Invoices (A.R.S. §§ 36-2234, 36-2239)

1. **Authorization of the rule by existing statute**

The rule has A.R.S. §§ 36-2234 and 36-2239 as additional specific authority.

2. **Objective**

The objective of the rule is to establish requirements related to invoices submitted to patients for services rendered.

3. **Analysis of effectiveness in achieving the objective**

The rule is effective in achieving its objective but could be more effective if subsections (C) and (D) were combined since they both address combined rates and charges.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable, but could be improved by restructuring the rule to remove passive language.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective**

Despite the minor changes that could be made, as described in paragraphs 3 and 6, the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

Ruthann Smejkal

From: Ithan Yanofsky
Sent: Wednesday, April 13, 2016 5:01 PM
To: Ruthann Smejkal
Subject: FW: WAITTIME / STANDBY

Follow Up Flag: Follow up
Due By: Friday, April 15, 2016 8:00 AM
Flag Status: Flagged

Hi Ruthann,

At some point in time if we are able to take the idea below into consideration it may make BEMSTS requirements and AHCCCS requirements more consistent. I can provide more information the next time we talk.

Ithan Yanofsky
Deputy Bureau Chief
Bureau of Emergency Medical Services and Trauma System
Arizona Department of Health Services

P: 602-364-3173
F: 602-364-3567

“Arizona responders can receive 1 hour CE with the free [Acute Traumatic Pain Management Training Module](#)”

From: Ithan Yanofsky
Sent: Wednesday, April 13, 2016 4:56 PM
To: 'Robynn Longenbaugh'; Aaron Sams; Brent Caswell; Todd Jaramillo
Cc: Shani Hardie; Burns, Victoria (Victoria.Burns@azahcccs.gov)
Subject: RE: WAITTIME / STANDBY

Robynn,

I'll pass your comments on to our Office of Administrative Council to take into consideration the next time we are able to amend rules.

Ithan

From: Robynn Longenbaugh [<mailto:robynn@aeromedclaims.com>]
Sent: Wednesday, April 13, 2016 3:18 PM
To: Ithan Yanofsky; Aaron Sams; Brent Caswell; Todd Jaramillo
Cc: Shani Hardie; Burns, Victoria (Victoria.Burns@azahcccs.gov)
Subject: WAITTIME / STANDBY

All,

Per Ithan's clarification, if our base rate is \$750.00, our one hour rate is \$187.50 - billable in 15 minute increments of \$46.875.

Per CMS (which AHCCCS, Medicare, and most other insurance companies follow), standby is billable in 30 minute increments.

So, if on standby for 30 minutes, AHCCCS says bill 1 increment but AZDHS says bill 2.

If on standby for 15 minutes, both AHCCCS and AZDHS would agree that billing 1 increment is appropriate but AZDHS says bill 1 at \$44.875 and AHCCCS would pay 1 unit (since 30 minutes) at 68.59% of \$93.75.

How can a provide be compliant with AHCCCS and AZDHS?

Sincerely,

Robynn Longenbaugh, CPC
AERO Med Claims, Inc.
(928)368-6799 X 302
(928)368-8776 - fax

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From: Ithan Yanofsky <Ithan.Yanofsky@azdhs.gov>
Sent: Wednesday, April 13, 2016 2:34 PM
To: Robynn Longenbaugh; Aaron Sams; Brent Caswell; Todd Jaramillo
Cc: Shani Hardie; Burns, Victoria (Victoria.Burns@azahcccs.gov)
Subject: RE: WAITTIME / STANDBY

Robyn,

The example cited in Victoria's e-mail below is still valid and has been since A.A.C. R9-25-1107 & 1108 have been in effect. The example was:

"The hourly wait time is established by dividing the BLS base rate by four. If your BLS base rate is \$750.00 you can request a wait time rate of \$750.00 / 4 or \$187.50 per hour. That rate is charged out at 1/4 hour increments of \$46.87 every 15 minutes as directed by A.A.C. R9-25-1108."

Another example is a Standby Waiting rate on the rate schedule of \$400.00 charged at \$400.00 per hour, in quarter hour increments of \$100.00 each with the first fifteen minutes to load and the last fifteen minutes to unload the patient free of charge. The first fifteen and last fifteen are not charged to the patient pursuant to A.A.C. R9-25-1108(C).

Hope this helps.

Ithan

From: Robynn Longenbaugh [mailto:robynn@aeromedclaims.com]
Sent: Wednesday, April 13, 2016 1:46 PM
To: Ithan Yanofsky; Aaron Sams; Brent Caswell; Todd Jaramillo
Cc: Shani Hardie; Burns, Victoria (Victoria.Burns@azahcccs.gov)
Subject: Re: WAITTIME / STANDBY

Ithan,

I'm sorry to need more information but are you saying that the published fee schedule is for one hour and that we must divide it into 1/4s (15 minute increments) or are you saying that methodology is outdated?

Sincerely,

Robynn Longenbaugh, CPC
AERO Med Claims, Inc.
(928)368-6799 X 302
(928)368-8776 - fax

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From: Ithan Yanofsky <Ithan.Yanofsky@azdhs.gov>
Sent: Wednesday, April 13, 2016 10:59 AM
To: Robynn Longenbaugh; Aaron Sams; Brent Caswell; Todd Jaramillo
Cc: Shani Hardie; Burns, Victoria (Victoria.Burns@azahcccs.gov)
Subject: RE: WAITTIME / STANDBY

Good morning,

I haven't been able to discuss this with Brent this morning as he is not available but I can confirm the information that AHCCCS was provided many years ago. The standby waiting rate displayed on the Ambulance Service Rate Schedule is an hourly rate that is assessed in quarter hour increments.

A.A.C. R9-25-1107 still covers Rate Calculation factors and A.A.C. R9-25-1108 still covers Implementation of Rates and Charges.

Both of these rules appear to have been based on a document entitled Ambulance Service Schedule which was in use up until approximately 1998. Ambulance Service Schedules were specific to each ambulance service and stated that the Standby Waiting rate was hourly but should be assessed in quarter hour increments. The Ambulance Service Schedule was superseded by A.A.C. R9-25-1107 & 1108 which lack the specificity of the Schedule but appear to have the same intent.

I hope this clarifies any confusion regarding rate setting or implementation.

Ithan Yanofsky
Deputy Bureau Chief
Bureau of Emergency Medical Services and Trauma System
Arizona Department of Health Services

P: 602-364-3173
F: 602-364-3567

“Arizona responders can receive 1 hour CE with the free Acute Traumatic Pain Management Training Module”

From: Robynn Longenbaugh [mailto:robynn@aeromedclaims.com]
Sent: Tuesday, April 12, 2016 4:52 PM
To: Aaron Sams; Brent Caswell; Ithan Yanofsky
Cc: Shani Hardie
Subject: WAITTIME / STANDBY

Can any of you shed any light on this? I just recently confirmed with Brent that the rate published is for 15 minutes but AHCCCS was apparently told "years ago" that it's for an hour (meaning we charge 1/4 of it for 15 minutes. Please advise.

Sincerely,

Robynn Longenbaugh, CPC
AERO Med Claims, Inc.
(928)368-6799 X 302
(928)368-8776 - fax

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From: Burns, Victoria <Victoria.Burns@azahcccs.gov>
Sent: Tuesday, April 12, 2016 4:39 PM
To: Robynn Longenbaugh
Cc: Aaron.Sams@azdhs.gov; Brent.Caswell@azdhs.gov; Shani Hardie; Joy Tisher
Subject: FW: A0420

Hi Robynn.

It is AHCCCS's understanding that the rate for Standby Waiting published on the ADHS Ambulance Fee Schedule is an hourly rate, derived by dividing the BLS rate by 4. Our understanding in that regard results from putting that very question to ADHS many years ago. The following information is taken from the email exchange:

AHCCCS question

"Follow-up question. R9-25-1107(E) has the Wait Time Rate being determined by dividing the BLS rate by 4. Is this the hourly rate? I hope so, that is the current understanding here at AHCCCS."

ADHS response

"The hourly wait time is established by dividing the BLS base rate by four. If your BLS base rate is \$750.00 you can request a wait time rate of \$750.00 / 4 or \$187.50 per hour. That rate is charged out at 1/4 hour increments of \$46.87 every 15 minutes as directed by R9-25-1108."

The HCPCS code for billing this service is A0420 which, as defined by CMS, is a time-dependent code for ½ hour. Accordingly, the AHCCCS FFS rate for Standby Waiting for certificate holders is the ADHS published rate divided by 2 and multiplied by the statutorily mandated percentage (currently 68.59%).

Victoria Burns

Reimbursement Administrator

AHCCCS Division of Health Care Management

(602) 417-4049

From: Robynn Longenbaugh [mailto:robynn@aeromedclaims.com]

Sent: Tuesday, April 12, 2016 11:44 AM

To: Grunwald, Evelyn; FFSRates

Cc: Aaron.Sams@azdhs.gov; Brent Caswell; Shani Hardie; Joy Tisher

Subject: A0420

Ms. Grunwald,

That is not correct.

Per R9-25-1108 Implementation of Rates and Charges (A.R.S. 36-2232, 36-2239)

C. A certificate holder shall assess a standby waiting rate in quarter-hour increments....

Per R9-25-1107 Rate Calculation Factors (A.R.S. 36-2232)

E. The Department shall determine the standby waiting rate by dividing the BLS base rate by 4.

The rate is 1/4 the BLS base rate so if the crew has to wait for an hour the standby is equal to one full BLS base rate.

Who, at AHCCCS, can look into this?

Aaron / Brent - can you provide any other documentation showing that the AZDHS published rate is for 15 minutes, not for an hour?

Sincerely,

Robynn Longenbaugh, CPC
AERO Med Claims, Inc.
(928)368-6799 X 302
(928)368-8776 - fax

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From: Grunwald, Evelyn <Evelyn.Grunwald@azahcccs.gov>
Sent: Tuesday, April 12, 2016 11:23 AM
To: Robynn Longenbaugh
Cc: Aaron.Sams@azdhs.gov; Brent Caswell; Shani Hardie; Joy Tisher
Subject: RE: A0420

Robynn – per our Rates Department 'AHCCCS has A0420 the unit measurement based on the CPT code book – one A0420 unit for each ½ hour increment, with the daily max = 6 units or 3 hours of waiting time.

The ADHS rate is for 1 hour of wait time, thus AHCCCS calculates ½ of the ADHS allowance and applies the statutory percentage.'

If you have any further questions, please contact FFSRates@azahcccs.gov.

From: Robynn Longenbaugh [<mailto:robynn@eromedclaims.com>]
Sent: Monday, April 11, 2016 4:05 PM
To: Grunwald, Evelyn
Cc: Aaron.Sams@azdhs.gov; Brent Caswell; Shani Hardie; Joy Tisher
Subject: A0420

Ms Grunwald,

I just want to go over this one more time.... a ground ambulance program we work with has a AZDHS regulated fee for A0420 (standby) of \$306.69 and per AZDHS, this is for 15 minute increments.

AHCCCS requires billing in half hour increments. If the provider is on standby for 15 minutes, per AZDHS, they would bill 1 unit at \$306.69. AHCCCS takes the \$306.69 and divides it in half and then pays the applicable percentage (currently 68.59%) so reimbursement is \$105.18. The reimbursement should be \$210.36.

I don't understand why AHCCCS doesn't require billing in 15 minute increments since AZDHS does. AHCCCS should not be paying regulated programs less than 68.59% of the AZDHS rate.

The provider's options are to:

1) Bill double units (since AHCCCS wants 30 minute units but AZDHS says 15)

2) Go to hearing with AHCCCS every time there is standby

On top of all of this, AHCCCS has a cap of 6 units. If option 1 (doubling the units is used, 60 minutes of standby (4 AZDHS units) would be billed as 8 units and AHCCCS won't even process more than 6.

Please tell me what AHCCCS is doing with this procedure code / reimbursement or who I can reach out to.

Sincerely,

Robynn Longenbaugh, CPC
AERO Med Claims, Inc.
(928)368-6799 X 302
(928)368-8776 - fax

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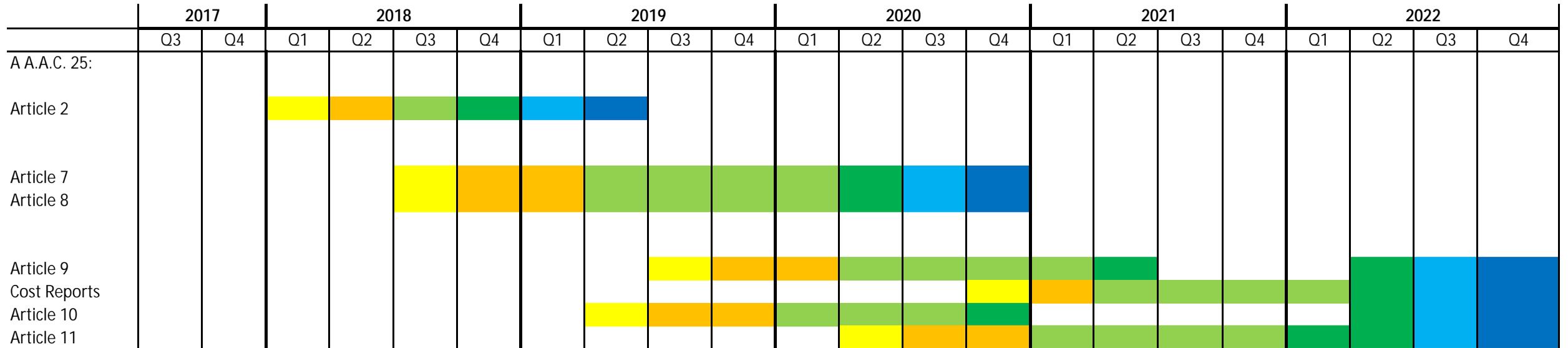
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Timeline for Rulemaking
9 A.A.C. 25



- Solicit comments from Stakeholders
- Draft rules
- Obtain input from Stakeholders about drafts
- Develop EIS info
- Submit NPR
- NPR-OP-GRRC



Department of Health Services – Emergency Medical Services

ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY

R9-25-901. Definitions (Authorized by A.R.S. § 36-2202 (A))

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in Articles 9, 10, 11, and 12 unless otherwise specified:

1. “Adjustment” means a modification, correction, or alteration to a rate or charge.
2. “ALS base rate” means the monetary amount assessed to a patient according to A.R.S. § 36-2239(F).
3. “Ambulance Revenue and Cost Report” means Exhibit A or Exhibit B, which records and reports the financial activities of an applicant or a certificate holder.
4. “Application packet” means the fee, documents, forms, and additional information the Department requires to be submitted by an applicant or on an applicant’s behalf.
5. “Back-up agreement” means a written arrangement between a certificate holder and a neighboring certificate holder for temporary coverage during limited times when the neighboring certificate holder’s ambulances are not available for service in its service area.
6. “BLS base rate” means the monetary amount assessed to a patient according to A.R.S. § 36-2239(G).
7. “Certificate holder” means a person to whom the Department issues a certificate of necessity.
8. “Certificate of registration” means an authorization issued by the Department to a certificate holder to operate a ground ambulance vehicle.
9. “Change of ownership” means:
 - a. In the case of ownership by a sole proprietor, 20% or more interest or a beneficial interest is sold or transferred;
 - b. In the case of ownership by a partnership or a private corporation, 20% or more of the stock, interest, or beneficial interest is sold or transferred; or
 - c. The controlling influence changes to the extent that the management and control of the ground ambulance service is significantly altered.
10. “Charge” means the monetary amount assessed to a patient for disposable supplies, medical supplies, medication, and oxygen-related costs.
11. “Chassis” means the part of a ground ambulance vehicle consisting of all base components, including front and rear suspension, exhaust system, brakes, engine, engine hood or cover, transmission, front and rear axles, front fenders, drive train and shaft, fuel system, engine air intake and filter, accelerator pedal, steering wheel, tires, heating and cooling system, battery, and operating controls and instruments.
12. “Convalescent transport” means a scheduled transport other than an interfacility transport.
13. “Dispatch” means the direction to a ground ambulance service or vehicle to respond to a call for EMS or transport.
14. “Driver’s compartment” means the part of a ground ambulance vehicle that contains the controls and instruments for operation of the ground ambulance vehicle.
15. “Financial statements” means an applicant’s balance sheet, annual income statement, and annual cash flow statement.
16. “Frame” means the structural foundation on which a ground ambulance vehicle chassis is constructed.
17. “General public rate” means the monetary amount assessed to a patient by a ground ambulance service for ALS, BLS, mileage, standby waiting, or according to a subscription service contract.
18. “Generally accepted accounting principles” means the conventions, and rules and procedures for accounting, including broad and specific guidelines, established by the Financial Accounting Standards Board.
19. “Goodwill” means the difference between the purchase price of a ground ambulance service and the fair market value of the ground ambulance service’s identifiable net assets.
20. “Gross revenue” means:
 - a. The sum of revenues reported in the Ambulance Revenue and Cost Report Exhibit A, page 2, lines 1, 9, and 20; or
 - b. The sum of revenues reported in the Ambulance Revenue and Cost Report Exhibit B, page 3, lines 1, 24, 25, and 26.
21. “Ground ambulance service” means an ambulance service that operates on land.
22. “Ground ambulance service contract” means a written agreement between a certificate holder and a person for the provision of ground ambulance service.
23. “Ground ambulance vehicle” means a motor vehicle, defined in A.R.S. § 28-101, specifically designed to transport ambulance attendants and patients on land.
24. “Indirect costs” means the cost of providing ground ambulance service that does not include the costs of equipment.
25. “Interfacility transport” means a scheduled transport between two health care institutions.
26. “Level of service” means ALS or BLS ground ambulance service, including the type of ambulance attendants used by the ground ambulance service.
27. “Major defect” means a condition that exists on a ground ambulance vehicle that requires the Department or the certificate holder to place the ground ambulance vehicle out-of-service.
28. “Mileage rate” means the monetary amount assessed to a patient for each mile traveled from the point of patient pick-up to the patient’s destination point.
29. “Minor defect” means a condition that exists on a ground ambulance vehicle that is not a major defect.
30. “Needs assessment” means a study or statistical analysis that examines the need for ground ambulance service within a service area or proposed service area that takes into account the current or proposed service area’s medical, fire, and police services.
31. “Out-of-service” means a ground ambulance vehicle cannot be operated to transport patients.

Department of Health Services – Emergency Medical Services

32. "Patient compartment" means the ground ambulance vehicle body part that holds a patient.
33. "Public necessity" means an identified population needs or requires all or part of the services of a ground ambulance service.
34. "Response code" means the priority assigned to a request for immediate dispatch by a ground ambulance service on the basis of the information available to the certificate holder or the certificate holder's dispatch authority.
35. "Response time" means the difference between the time a certificate holder is notified that a need exists for immediate dispatch and the time the certificate holder's first ground ambulance vehicle arrives at the scene. Response time does not include the time required to identify the patient's need, the scene, and the resources necessary to meet the patient's need.
36. "Response-time tolerance" means the percentage of actual response times for a response code and scene locality that are compliant with the response time approved by the Department for the response code and scene locality, for any 12-month period.
37. "Rural area" means a geographic region with a population of less than 40,000 residents that is not a suburban area.
38. "Scene locality" means an urban, suburban, rural, or wilderness area.
39. "Scheduled transport" means to convey a patient at a prearranged time by a ground ambulance vehicle for which an immediate dispatch and response is not necessary.
40. "Service area" means the geographical boundary designated in a certificate of necessity using the criteria in A.R.S. § 36-2233(E).
41. "Settlement" means the difference between the monetary amount Medicare establishes or AHCCCS pays as an allowable rate and the general public rate a ground ambulance service assesses a patient.
42. "Standby waiting rate" means the monetary amount assessed to a patient by a certificate holder when a ground ambulance vehicle is required to wait in excess of 15 minutes to load or unload the patient, unless the excess delay is caused by the ground ambulance vehicle or the ambulance attendants on the ground ambulance vehicle.
43. "Subscription service" means the provision of EMS or transport by a certificate holder to a group of individuals within the certificate holder's service area and the allocation of annual costs among the group of individuals.
44. "Subscription service contract" means a written agreement for subscription service.
45. "Subscription service rate" means the monetary amount assessed to a person under a subscription service contract.
46. "Substandard performance" means a certificate holder's:
 - a. Noncompliance with A.R.S. Title 36, Chapter 21.1, Articles 1 and 2, or 9 A.A.C. 25, or the terms of the certificate holder's certificate of necessity, including all decisions and orders issued by the Director to the certificate holder;
 - b. Failure to ensure that an ambulance attendant complies with A.R.S. Title 36, Chapter 21.1, Articles 1 and 2, or 9 A.A.C. 25, for the level of ground ambulance service provided by the certificate holder; or
 - c. Failure to meet the requirements in 9 A.A.C. 25, Article 10.
47. "Suburban area" means a geographic region within a 10-mile radius of an urban area that has a population density equal to or greater than 1,000 residents per square mile.
48. "Third-party payor" means a person, other than a patient, who is financially responsible for the payment of a patient's assessed general public rates and charges for EMS or transport provided to the patient by a ground ambulance service.
49. "Transfer" means:
 - a. A change of ownership or type of business entity; or
 - b. To move a patient from a ground ambulance vehicle to an air ambulance.
50. "Transport" means the conveyance of one or more patients in a ground ambulance vehicle from the point of patient pick-up to the patient's initial destination.
51. "Type of ground ambulance service" means an interfacility transport, a convalescent transport, or a transport that requires an immediate response.
52. "Urban area" means a geographic region delineated as an urbanized area by the United States Department of Commerce, Bureau of the Census.
53. "Wilderness area" means a geographic region that has a population density of less than one resident per square mile.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-902. Application for an Initial Certificate of Necessity; Provision of ALS Services; Transfer of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2204, 36-2232, 36-2233(B), 36-2236(A) and (B), 36-2240)

- A. An applicant for an initial certificate of necessity shall submit to the Department an application packet, in a Department-provided format, that includes:
 1. An application form that contains:
 - a. The legal business or corporate name, address, telephone number, and facsimile number of the ground ambulance service;
 - b. The name, title, address, e-mail address, and telephone number of the following:
 - i. Each applicant and individual responsible for managing the ground ambulance service;
 - ii. The business representative or designated manager;
 - iii. The individual to contact to access the ground ambulance service's records required in R9-25-910; and
 - iv. The statutory agent for the ground ambulance service, if applicable;
 - c. The name, address, and telephone number of the base hospital or centralized medical direction communications center for the ground ambulance service;
 - d. The address and telephone number of the ground ambulance service's dispatch center;
 - e. The address and telephone number of each suboperation station located within the proposed service area;

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- f. Whether the ground ambulance service is a corporation, partnership, sole proprietorship, limited liability corporation, or other;
 - g. Whether the business entity is proprietary, non-profit, or governmental;
 - h. A description of the communication equipment to be used in each ground ambulance vehicle and suboperation station;
 - i. The make and year of each ground ambulance vehicle to be used by the ground ambulance service;
 - j. The number of ambulance attendants and the type of licensure, certification, or registration for each attendant;
 - k. The proposed hours of operation for the ground ambulance service;
 - l. The type of ground ambulance service;
 - m. The level of ground ambulance service;
 - n. Acknowledgment that the applicant:
 - i. Is requesting to operate ground ambulance vehicles and a ground ambulance service in this state;
 - ii. Has received a copy of 9 A.A.C. 25 and A.R.S. Title 36, Chapter 21.1; and
 - iii. Will comply with the Department's statutes and rules in any matter relating to or affecting the ground ambulance service;
 - o. A statement that any information or documents submitted to the Department are true and correct; and
 - p. The signature of the applicant or the applicant's designated representative and the date signed;
2. The following information:
- a. Where the ground ambulance vehicles in subsection (A)(1)(i) are located within the applicant's proposed service area;
 - b. A statement of the proposed general public rates;
 - c. A statement of the proposed charges;
 - d. The applicant's proposed response times, response codes, and response-time tolerances for each scene locality in the proposed service area, based on the following:
 - i. The population demographics within the proposed service area;
 - ii. The square miles within the proposed service area;
 - iii. The medical needs of the population within the proposed service area;
 - iv. The number of anticipated requests for each type and level of ground ambulance service in the proposed service area;
 - v. The available routes of travel within the proposed service area;
 - vi. The geographic features and environmental conditions within the proposed service area; and
 - vii. The available medical and emergency medical resources within the proposed service area;
 - e. A plan to provide temporary ground ambulance service to the proposed service area for a limited time when the applicant is unable to provide ground ambulance service to the proposed service area;
 - f. Whether a ground ambulance service currently operates in all or part of the proposed service area and if so, where; and
 - g. Whether an applicant or a designated manager:
 - i. Has ever been convicted of a felony or a misdemeanor involving moral turpitude,
 - ii. Has ever had a license or certificate of necessity for a ground ambulance service suspended or revoked by any state or political subdivision, or
 - iii. Has ever operated a ground ambulance service without the required certification or licensure in this or any other state;
3. The following documents:
- a. A description of the proposed service area by any method specified in A.R.S. § 36-2233(E) and a map that illustrates the proposed service area;
 - b. A projected Ambulance Revenue and Cost Report;
 - c. The financing agreement for all capital acquisitions exceeding \$5,000;
 - d. The source and amount of funding for cash flow from the date the ground ambulance service commences operation until the date cash flow covers monthly expenses;
 - e. Any proposed ground ambulance service contract under A.R.S. §§ 36-2232(A)(1) and 36-2234(K);
 - f. The information and documents specified in R9-25-1101, if the applicant is requesting to establish general public rates;
 - g. Any subscription service contract under A.R.S. §§ 36-2232(A)(1) and 36-2237(B);
 - h. A certificate of insurance or documentation of self-insurance required in A.R.S. § 36-2237(A) and R9-25-909;
 - i. A surety bond if required under A.R.S. § 36-2237(B); and
 - j. The applicant's and designated manager's resume or other description of experience and qualification to operate a ground ambulance service; and
4. Any documents, exhibits, or statements that may assist the Director in evaluating the application or any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents.
- B.** Before an applicant provides ALS, the applicant shall submit to the Department the application packet required in subsection (A) and the following:
- 1. A current written contract for ALS medical direction; and
 - 2. Proof of professional liability insurance for ALS personnel required in R9-25-909(A)(1)(b).
- C.** When requesting a transfer of a certificate of necessity:
- 1. The person wanting to transfer the certificate of necessity shall submit a letter to the Department that contains:
 - a. A request that the certificate of necessity be transferred, and
 - b. The name of the person to whom the certificate of necessity is to be transferred; and
 - 2. The person identified in subsection (C)(1)(b) shall submit:

Department of Health Services – Emergency Medical Services

- a. The application packet in subsection (A); and
 - b. The information in subsection (B), if ALS is provided.
- D. An applicant shall submit the following fees:
1. \$100 application filing fee for an initial certificate of necessity, or
 2. \$50 application filing fee for a transfer of a certificate of necessity.
- E. The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-903. Determining Public Necessity (A.R.S. § 36-2233(B)(2))

- A. In determining public necessity for an initial or amended certificate of necessity, the Director shall consider the following:
1. The response times, response codes, and response-time tolerances proposed by the applicant for the service area;
 2. The population demographics within the proposed service area;
 3. The geographic distribution of health care institutions within and surrounding the service area;
 4. Whether issuing a certificate of necessity to more than one ambulance service within the same service area is in the public's best interest, based on:
 - a. The existence of ground ambulance service to all or part of the service area;
 - b. The response times of and response-time tolerances for ground ambulance service to all or part of the service area;
 - c. The availability of certificate holders in all or part of the service area; and
 - d. The availability of emergency medical services in all or part of the service area;
 5. The information in R9-25-902(A)(1) and (A)(2); and
 6. Other matters determined by the Director or the applicant to be relevant to the determination of public necessity.
- B. In deciding whether to issue a certificate of necessity to more than one ground ambulance service for convalescent or interfacility transport for the same service area or overlapping service areas, the Director shall consider the following:
1. The factors in subsections (A)(2), (A)(3), (A)(4)(a), (A)(4)(c), (A)(4)(d), (A)(5), and (A)(6);
 2. The financial impact on certificate holders whose service area includes all or part of the service area in the requested certificate of necessity;
 3. The need for additional convalescent or interfacility transport; and
 4. Whether a certificate holder for the service area has demonstrated substandard performance.
- C. In deciding whether to issue a certificate of necessity to more than one ground ambulance service for a 9-1-1 or similarly dispatched transport within the same service area or overlapping service areas, the Director shall consider the following:
1. The factors in subsections (A), (B)(2), and (B)(4);
 2. The difference between the response times in the service area and proposed response times by the applicant;
 3. A needs assessment adopted by a political subdivision, if any; and
 4. A needs assessment, referenced in A.R.S. § 36-2210, adopted by a local emergency medical services coordinating system, if any.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-904. Application for Renewal of a Certificate of Necessity (A.R.S. §§ 36-2233, 36-2235, 36-2240)

- A. An applicant for a renewal of a certificate of necessity shall submit to the Department, not less than 60 days before the expiration date of the certificate of necessity, an application packet that includes:
1. An application form that contains the information in R9-25-902(A)(1)(a) through (A)(1)(m) and the signature of the applicant;
 2. Proof of continuous insurance coverage or a statement of continuing self-insurance, including a copy of the current certificate of insurance or current statement of self-insurance required in R9-25-909;
 3. Proof of continued coverage by a surety bond if required under A.R.S. §§ 36-2237(B);
 4. A copy of the list of current charges required in R9-25-1109;
 5. An affirmation that the certificate holder has and is continuing to meet the conditions of the certificate of necessity, including assessing only those rates and charges approved and set by the Director; and
 6. \$50 application filing fee.
- B. A certificate holder who fails to file a timely application for renewal of the certificate of necessity according to A.R.S. § 36-2235 and this Section, shall cease operations at 12:01 a.m. on the date the certificate of necessity expires.
- C. To commence operations after failing to file a timely renewal application, a person shall file an initial certificate of necessity application according to R9-25-902 and meet all the requirements for an initial certificate of necessity.
- D. The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-905. Application for Amendment of a Certificate of Necessity (A.R.S. §§ 36-2232(A)(4), 36-2240)

- A. A certificate holder that wants to amend its certificate of necessity shall submit to the Department the application form in R9-25-902(A)(1) and an application filing fee of \$50 for changes in:
1. The legal name of the ground ambulance service;

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2. The legal address of the ground ambulance service;
 3. The level of ground ambulance service;
 4. The type of ground ambulance service;
 5. The service area; or
 6. The response times, response codes, or response-time tolerances.
- B.** In addition to the application form in subsection (A), an amending certificate holder shall submit:
1. For the addition of ALS ground ambulance service, the information required in R9-25-902(B)(1) and (B)(2).
 2. For a change in the service area, the information required in R9-25-902(A)(3)(a);
 3. For a change in response times, the information required in subsection R9-25-902(A)(2)(d);
 4. A statement explaining the financial impact and impact on patient care anticipated by the proposed amendment;
 5. Any other information or documents requested by the Director to clarify incomplete or ambiguous information or documents; and
 6. Any documents, exhibits, or statements that the amending certificate holder wishes to submit to assist the Director in evaluating the proposed amendment.
- C.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-906. Determining Response Times, Response Codes, and Response-Time Tolerances for Certificates of Necessity and Provision of ALS Services (A.R.S. §§ 36-2232, 36-2233)

In determining response times, response codes, and response-time tolerances for all or part of a service area, the Director may consider the following:

1. Differences in scene locality, if applicable;
2. Requirements of a 9-1-1 or similar dispatch system for all or part of the service area;
3. Requirements in a contract approved by the Department between a ground ambulance service and a political subdivision;
4. Medical prioritization for the dispatch of a ground ambulance vehicle according to procedures established by the certificate holder's medical direction authority; and
5. Other matters determined by the Director to be relevant to the measurement of response times, response codes, and response-time tolerances.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-907. Observance of Service Area; Exceptions (A.R.S. § 36-2232)

A certificate holder shall not provide EMS or transport within an area other than the service area identified in the certificate holder's certificate of necessity except:

1. When authorized by a service area's dispatch, before the service area's ground ambulance vehicle arrives at the scene; or
2. According to a back-up agreement.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-908. Transport Requirements; Exceptions (A.R.S. §§ 36-2224, 36-2232)

A certificate holder shall transport a patient except:

1. As limited by A.R.S. § 36-2224;
2. If the patient is in a health care institution and the patient's medical condition requires a level of care or monitoring during transport that exceeds the scope of practice of the ambulance attendants' certification;
3. If the transport may result in an immediate threat to the ambulance attendant's safety, as determined by the ambulance attendant, certificate holder, or medical direction authority;
4. If the patient is more than 17 years old and refuses to be transported; or
5. If the patient is in a health care institution and does not meet the federal requirements for medically necessary ground vehicle ambulance transport as identified in 42 CFR 410.40.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-909. Certificate of Insurance or Self-Insurance (A.R.S. §§ 36-2232, 36-2233, 36-2237)

A. A certificate holder shall:

1. Maintain with an insurance company authorized to transact business in this state:
 - a. A minimum single occurrence automobile liability insurance coverage of \$500,000 for ground ambulance vehicles; and
 - b. A minimum single occurrence malpractice or professional liability insurance coverage of \$500,000; or
2. Be self-insured for the amounts in subsection (A)(1).

B. A certificate holder shall submit to the Department:

1. A copy of the certificate of insurance; or
2. Documentation of self-insurance.

Department of Health Services – Emergency Medical Services

- C. A certificate holder shall submit a copy of the certificate of insurance to the Department no later than five days after the date of issuance of:
1. A renewal of the insurance policy; or
 2. A change in insurance coverage or insurance company.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-910. Record and Reporting Requirements (A.R.S. §§ 36-2232, 36-2241, 36-2246)

- A. A certificate holder shall submit to the Department, no later than 180 days after the certificate holder's fiscal year end, the appropriate Ambulance Revenue and Cost Report.
- B. According to A.R.S. § 36-2241, a certificate holder shall maintain the following records for the Department's review and inspection:
1. The certificate holder's financial statements;
 2. All federal and state income tax records;
 3. All employee-related expense reports and payroll records;
 4. All bank statements and documents verifying reconciliation;
 5. All documents establishing the depreciation of assets, such as schedules or accounting records on ground ambulance vehicles, equipment, office furniture, and other plant and equipment assets subject to depreciation;
 6. All first care forms required in R9-25-514 and R9-25-615;
 7. All patient billing and reimbursement records;
 8. All dispatch records, including the following:
 - a. The name of the ground ambulance service;
 - b. The month of the record;
 - c. The date of each transport;
 - d. The number assigned to the ground ambulance vehicle by the certificate holder;
 - e. Names of the ambulance attendants;
 - f. The scene;
 - g. The actual response time;
 - h. The response code;
 - i. The scene locality;
 - j. Whether the scene to which the ground ambulance vehicle is dispatched is outside of the certificate holder's service area; and
 - k. Whether the dispatch is a scheduled transport;
 9. All ground ambulance service back-up agreements, contracts, grants, and financial assistance records related to ground ambulance vehicles, EMS, and transport;
 10. All written ground ambulance service complaints; and
 11. Information about destroyed or otherwise irretrievable records in a file including:
 - a. A list of each record destroyed or otherwise irretrievable;
 - b. A description of the circumstances under which each record became destroyed or otherwise irretrievable; and
 - c. The date each record was destroyed or became otherwise irretrievable.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-911. Ground Ambulance Service Advertising (A.R.S. § 36-2232)

- A. A certificate holder shall not advertise that it provides a type or level of ground ambulance service or operates in a service area different from that granted in the certificate of necessity.
- B. When advertising, a certificate holder shall not direct the circumvention of the use of 9-1-1 or another similarly designated emergency telephone number.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-912. Disciplinary Action (A.R.S. §§ 36-2244, 36-2245)

- A. After notice and opportunity to be heard is given according to the procedures in A.R.S. Title 41, Chapter 6, Article 10, a certificate of necessity may be suspended, revoked, or other disciplinary action taken for the following reasons:
1. The certificate holder has:
 - a. Demonstrated substandard performance; or
 - b. Been determined not to be fit and proper by the Director;
 2. The certificate holder has provided false information or documents:
 - a. On an application for a certificate of necessity;
 - b. Regarding any matter relating to its ground ambulance vehicles or ground ambulance service; or
 - c. To a patient, third-party payor, or other person billed for service; or
 3. The certificate holder has failed to:
 - a. Comply with the applicable requirements of A.R.S. Title 36, Chapter 21.1, Articles 1 and 2 or 9 A.A.C. 25; or

Department of Health Services – Emergency Medical Services

b. Comply with any term of its certificate of necessity or any rates and charges schedule filed by the certificate holder and approved by the Department.

B. In determining the type of disciplinary action to impose under A.R.S. § 36-2245, the Director shall consider:

1. The severity of the violation relative to public health and safety;
2. The number of violations relative to the annual transport volume of the certificate holder;
3. The nature and circumstances of the violation;
4. Whether the violation was corrected, the manner of correction, and the time-frame involved; and
5. The impact of the penalty or assessment on the provision of ground ambulance service in the certificate holder’s service area.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

Exhibit 9A. Ambulance Revenue and Cost Report, General Information and Certification

Legal Name of Company: _____ CON No. _____

D.B.A. (Doing Business As): _____ Business Phone: () _____

Financial Records Address: _____ City: _____
 Zip Code _____

Mailing Address (If Different): _____ City: _____ Zip Code _____

Owner/Manager: _____

Report Contact Person: _____ Phone: () _____ Ext. _____

Report for Period From: _____ To: _____

Method of Valuing Inventory: LIFO: () FIFO: () Other _____ (Explain): _____

Please attach a list of all affiliated organizations (parents/subsidiaries) that exhibit at least 5% ownership/ vesting.

CERTIFICATION

I hereby certify that I have directed the preparation of the Arizona Ambulance Revenue and Cost Report for the facility listed above in accordance with the reporting requirements of the State of Arizona.

I have read this report and hereby certify that the information provided is true and correct to the best of my knowledge.

This report has been prepared using the accrual basis of accounting.

Authorized Signature: _____

Title: _____ Date: _____

Mail to:
 Department of Health Services
 Bureau of Emergency Medical Services and Trauma System
 Certificate of Necessity and Rates Section
 150 North 18th Avenue, Suite 540, Phoenix, AZ 85007
 Telephone: (602) 364-3150; Fax: (602) 364-3567

Revised December 2013

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATISTICAL SUPPORT DATA

Line No.	DESCRIPTION	(1) SUBSCRIPTION SERVICE TRANSPORTS	(2)** TRANSPORTS UNDER CONTRACT	(3) TRANSPORTS NOT UNDER CONTRACT	(4)
TOTALS					
01	Number of ALS Billable Runs	_____	_____	_____	_____
02	Number of BLS Billable Runs	_____	_____	_____	_____
03	Number of Loaded Billable Miles	_____	_____	_____	_____
04	Waiting Time (Hr. & Min.)	_____	_____	_____	_____
05	Total Canceled (Non-Billable) Runs	_____	_____	_____	_____
		Number			
	Volunteer Services: (OPTIONAL)				Donated Hours
06	Paramedic and IEMT	_____			
07	Emergency Medical Technician - B	_____			
08	Other Ambulance Attendants	_____			
09	Total Volunteer Hours	_____			

**This column reports only those runs where a contracted discount rate was applied. See Page 7 to provide additional information regarding discounted contract runs.

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

STATISTICAL SUPPORT DATA

Line No.	TYPE OF SERVICE	(1) PATIENTS	(2) NON-SUBSIDIZED PATIENTS	(3) SUBSIDIZED TOTALS
01	Number of Advanced Life Support Billable Runs _____		_____	_____
02	Number of Basic Life Support Billable Runs _____		_____	_____
03	Number of Loaded Billable Miles	_____	_____	_____
04	Waiting Time (Hours and Minutes) _____		_____	_____
05	Total Canceled (Non-Billable) Runs _____		_____	_____
				Num-ber
	Volunteer Services: (OPTIONAL)			Donated Hours
06	Paramedic, EMT-I(99), and AEMT _____			
07	Emergency Medical Technician (EMT) _____			
08	Other Ambulance Attendants _____ _____			
09	Total Volunteer Hours _____			

Note: This page and page 3.1, Routine Operating Revenue, are only for those governmental agencies that apply subsidy to patient billings.

Department of Health Services – Emergency Medical Services

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

STATEMENT OF INCOME

<u>Line</u>	<u>No. DESCRIPTION</u>	<u>FROM</u>	
	Operating Revenue:		
01	Ambulance Service Routine Operating Revenue		Page 3 Line 10
	\$ _____		
	Less:		
02	AHCCCS Settlement		_____
03	Medicare Settlement.		_____
04	Contractual Discounts.	Page 7 Line 22	_____
05	Subscription Service Settlement.	Page 8 Line 4	_____
06	Other (Attach Schedule).		_____
07	Total.		_____

08	Net Revenue from Ambulance Runs		
	\$ _____		
09	Sales of Subscription Service Contracts.	Page 8 Line 8	
10	Total Operating Revenue		
	\$ _____		
	Ambulance Operating Expenses:		
11	Bad Debt (Includes Subscription Services Bad Debt)		\$ _____
12	Wages, Payroll Taxes, and Employee Benefits.	Page 4 Line 22	_____
13	General and Administrative Expenses	Page 5 Line 20	_____
14	Cost of Goods Sold.	Page 3 Line 15	_____
15	Other Operating Expenses	Page 6 Line 28	_____
16	Interest Expense (Attach Schedule IV)	Page 14 CI 4 & 5 Line 28	_____
17	Subscription Service Direct Selling.	Page 8 Line 23	_____
18	Total Operating Expenses		_____

19	Ambulance Service Income (Loss) (Line 10 minus Line 18)		
	\$ _____		
	Other Revenue/Expenses:		
20	Other Operating Revenue and Expenses	Page 9 Line 17	\$ _____
21	Non-Operating Revenue and Expense		_____
22	Non-Deductible Expenses (Attach Schedule)		_____
23	Total Other Revenues/Expenses		

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24 Ambulance Service Income (Loss) - Before Income Taxes
\$ _____

Provision for Income Taxes:

25 Federal Income Tax..... \$ _____

26 State Income Tax..... _____

27 Total Income Tax

28 Ambulance Service - Net Income (Loss)
\$ _____

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

ROUTINE OPERATING REVENUE

Line

No. DESCRIPTION _____

Ambulance Service Routine Operating Revenue:

01 ALS Base Rate..... \$ _____

02 BLS Base Rate..... _____

03 Mileage Charge..... _____

04 Waiting Charge..... _____

05 Medical Supplies (Gross Charges)..... _____

06 Nurses Charges..... _____

07 Total \$ _____

08 Standby Revenue (Attach Schedule) _____

09 Other Ambulance Service Revenue (Attach Schedule) _____

10 Total Ambulance Service Routine Operating Revenue (To Page 2, Line 01) \$ _____

COST OF GOODS SOLD: (MEDICAL SUPPLIES)

11 Inventory at Beginning of Year _____

12 Plus Purchases..... _____

13 Plus Other Costs..... _____

14 Less Inventory at End of Year..... (_____)

	Department of Health Services – Emergency Medical Services	
15	Cost of Goods Sold (To Page 2, Line 14).....	\$
<hr/>		

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

ROUTINE OPERATING REVENUE

Line No. DESCRIPTION	(1) <u>PATIENTS</u>	(2) NON- <u>SUBSIDIZED</u> <u>PATIENTS</u>	(3) <u>SUBSIDIZED</u> <u>TOTALS</u>
AMBULANCE SERVICE OPERATING REVENUE			
01 ALS Base Rate \$ _____		\$ _____	\$ _____
02 BLS Base Rate _____		_____	_____
03 Mileage Charge. _____		_____	_____
04 Waiting Charge. _____		_____	_____
05 Medical Supplies (Gross Charges). _____		_____	_____
06 Nurses' Charges. _____		_____	_____
07 Total \$ _____		\$ _____	\$ _____
08 Standby Revenue (Attach Schedule) _____			
09 Other Ambulance Service Revenue (Attach Schedule) _____			
10 Total Ambulance Service Routine Operating Revenue (Column 3 to Page 2, Line 01) \$ _____			
Less:			
11 AHCCCS Settlement \$ _____		\$ _____	\$ _____
12 Medicare Settlement _____		_____	_____
13 Subsidy _____		_____	XXXXXXXXXXXX
14 Other (Attach Schedule) _____		_____	_____
15 Total Settlements (Column 3 to Page 2, Line 06) \$ _____		\$ _____	\$ _____
Cost of Goods Sold:			
16 Inventory at Beginning of Year \$ _____			

Department of Health Services – Emergency Medical Services

- 17 Plus Purchases.
- 18 Plus Other Costs.
- 19 Less Inventory at End of Year.
()
- 20 Cost of Goods Sold (Column 3 to Page 2, Line 14)
\$

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

WAGES, PAYROLL TAXES, AND EMPLOYEE BENEFITS

Line No. DESCRIPTION	No. of *F.T.E.s	AMOUNT
01 Gross Wages - OFFICERS/OWNERS (Attach Schedule I, Page 10, Line 7) \$ _____		_____
02 Payroll Taxes		
03 Employee Fringe Benefits		
04 Total \$ _____		_____
05 Gross Wages - MANAGEMENT (Attach Schedule II) \$ _____		_____
06 Payroll Taxes		
07 Employee Fringe Benefits		
08 Total \$ _____		_____

Gross Wages - AMBULANCE PERSONNEL (Attach Schedule II)

	**Casual Labor	Wages	
09 Paramedic, EMT-I(99) and AEMT	_____	_____	\$ _____
10 Emergency Medical Technician (EMT).	_____	_____	_____
11 Nurses	_____	_____	_____
12 Payroll Taxes			
13 Employee Fringe Benefits			
14 Total \$ _____			_____

Gross Wages - OTHER PERSONNEL (Attach Schedule II)

15 Dispatch \$ _____	_____
16 Mechanics	
17 Office and Clerical	
18 Other	

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19	Payroll Taxes.....	_____
20	Employee Fringe Benefits.....	_____
21	Total.....	_____
	\$_____	
22	Total F.T.E.s' Wages, Payroll Taxes, & Employee Benefits (To Page 2, Line 12) .	_____
	\$_____	

- * Full-time equivalents (F.T.E.) is the sum of all hours for which employee wages were paid during the year divided by 2,080.
- ** The sum of Casual Labor (wages paid on a per run basis) plus Wages paid is entered in Column 2 by line item. However, when calculating F.T.E.s, do not include casual labor hours worked or expenses incurred.

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

WAGES, PAYROLL TAXES, AND EMPLOYEE BENEFITS

Line No.	DESCRIPTION	(1) No. of	(2) Total *F.T.E.s	(3) Allocation Expenditure	(4) Ambulance Percentage
01	Gross Wages - Management (Attach Schedule II)		_____	\$ _____	_____
02	Payroll Taxes			_____	_____
03	Employee Fringe Benefits			_____	_____
04	Total		_____	\$ _____	
Gross Wages - Ambulance Personnel (Attach Schedule):					
			**Contractual	Wages	
05	Paramedic, EMT-I(99) and AEMT		\$ _____	_____	_____
06	Emergency Medical Technician (EMT)		_____	_____	_____
07	Nurses		_____	_____	_____
08	Drivers		_____	_____	_____
09	Payroll Taxes			_____	_____
10	Employee Fringe Benefits			_____	_____
11	Total			_____	\$ _____
Gross Wages - Other Personnel (Attach Schedule II):					
12	Dispatch			_____	\$ _____
13	Mechanics			_____	_____
14	Office and Clerical			_____	_____
15	Other			_____	_____
16	Payroll Taxes			_____	_____
17	Employee Fringe Benefits			_____	_____
18	Total			_____	\$ _____
19	Total F.T.E.s' Wages, Payroll Taxes, and Employee Benefits (To Page 2, Line 12)				_____
	\$ _____				

* Full-Time Equivalents (F.T.E.) is the sum of all hours for which employee wages were paid during the year divided by 2,080.

**The sum of Contractual + Wages paid is entered in Column 2 by line item. However, when calculating F.T.E.s, do not include contractual hours worked or expenses incurred.

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

WAGES, PAYROLL TAXES, AND EMPLOYEE BENEFITS

Line No.	DESCRIPTION	Basis of Allocations
01	Gross Wages - Management	
02	Payroll Taxes	
03	Employee Fringe Benefits	
04	Total	

Gross Wages - Ambulance Personnel: Contractual Wages

05	Paramedic, EMT-I(99) and AEMT	
06	Emergency Medical Technician (EMT)	
07	Nurses	
08	Drivers	
09	Payroll Taxes	
10	Employee Fringe Benefits	
11	Total	

Gross Wages - Other Personnel:

12	Dispatch	
13	Mechanics	
14	Office and Clerical	
15	Other	
16	Payroll Taxes	
17	Employee Fringe Benefits	
18	Total	

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

GENERAL AND ADMINISTRATIVE EXPENSES

Line
No. DESCRIPTION

Professional Services:

01	Legal Fees	\$ _____	
02	Collection Fees.....	_____	
03	Accounting and Auditing		_____
04	Data Processing Fees.....	_____	
05	Other (Attach Schedule)	_____	
06	Total		\$ _____

Travel and Entertainment:

07	Meals and Entertainment.....	\$ _____	
08	Transportation - Other Company Vehicles	_____	
09	Travel	_____	
10	Other (Attach Schedule)	_____	
11	Total		\$ _____

Other General and Administrative:

12	Office Supplies	\$ _____	
13	Postage	_____	
14	Telephone	_____	
15	Advertising	_____	
16	Professional Liability Insurance.....	_____	
17	Dues and Subscriptions	_____	
18	Other (Attach Schedule)	_____	
19	Total		\$ _____
20	Total General and Administrative Expenses (To Page 2, Line 13).....		\$ _____

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

GENERAL AND ADMINISTRATIVE EXPENSES

Line No. DESCRIPTION Amount	(1) Total	(2) Allocation Expenditure	(3) Ambulance Percentage
Professional Services:			
01 Legal Fees			\$ _____
_____ \$ _____			
02 Collection Fees			_____

03 Accounting and Auditing			_____

04 Data Processing Fees.....		_____	_____

05 Other (Attach Schedule)			_____

06 Total		\$ _____	
\$ _____			
Travel and Entertainment:			
07 Meals and Entertainment		\$ _____	_____
\$ _____			
08 Transportation - Other Company Vehicles			_____

09 Travel		_____	_____

10 Other (Attach Schedule)		_____	_____

11 Total		\$ _____	
\$ _____			
Other General and Administrative:			
12 Office Supplies			\$ _____
_____ \$ _____			
13 Postage		_____	_____

14 Telephone		_____	_____

15 Advertising		_____	_____

16 Professional Liability Insurance		_____	_____

17 Dues and Subscriptions		_____	_____

18 Other (Attach Schedule)		_____	_____

19 Total		\$ _____	
\$ _____			
20 Total General & Administrative Expenses (to Page 2, Line 13)			\$ _____
\$ _____			

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

GENERAL AND ADMINISTRATIVE EXPENSES (cont.)

Line No.	DESCRIPTION	Basis of Allocations
Professional Services:		
01	Legal Fees	
02	Collection Fees.	
03	Accounting and Auditing	
04	Data Processing Fees.. . . .	
05	Other (Attach Schedule)	
06	Total	
Travel and Entertainment:		
07	Meals and Entertainment	
08	Transportation - Other Company Vehicles	
09	Travel	
10	Other (Attach Schedule)	
11	Total	
Other General and Administrative:		
12	Office Supplies	
13	Postage	
14	Telephone	
15	Advertising	
16	Professional Liability Insurance	
17	Dues and Subscriptions	
18	Other (Attach Schedule)	
19	Total	

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

OTHER OPERATING EXPENSES

Line

No. OTHER OPERATING EXPENSES

Depreciation and Amortization:

01 Depreciation (Attach Schedule III) (From Line 20, Col I, Page 13) \$ _____

02 Amortization _____

03 Total
\$ _____

04 Rent/Lease (Attach Schedule III) (From Line 20, Col K, Page 13)
\$ _____

Building/Station Expense:

05 Building and Cleaning Supplies \$ _____

06 Utilities _____

07 Property Taxes _____

08 Property Insurance _____

09 Repairs and Maintenance _____

10 Other (Attach Schedule) _____

11 Total
\$ _____

Vehicle Expense - Ambulance Units:

12 License/Registration \$ _____

13 Fuel _____

14 General Vehicle Service and Maintenance _____

15 Major Repairs _____

16 Insurance - Service Vehicles _____

17 Other (Attach Schedule) _____

18 Total
\$ _____

Other Expenses:

19 Dispatch _____

20 Education/Training _____

21 Uniforms and Uniform Cleaning _____

22 Meals and Travel for Ambulance Personnel _____

23 Maintenance Contracts _____

24 Minor Equipment - Not Capitalized _____

25 Ambulance Supplies - Nonchargeable _____

26 Other (Attach Schedule) _____

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27 Total
\$ _____

28 Total Other Operating Expenses (To Page 2, Line 15) \$

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

OTHER OPERATING EXPENSES

<u>OTHER OPERATING EXPENSES</u>	(1) Total	(2) Allocation	(3) Ambulance Expendi-
<u>ture</u>			
<u>Percentage</u>	<u>Amount</u>		
Depreciation and Amortization:			
Depreciation (Attach Schedule III) (From Line 20, Col I, Page 12) .			
\$ _____	_____		
Amortization	_____		
_____	_____		
Total	_____		
\$ _____	_____		
Rent/Lease (Attach Schedule III) Line 20, Col K, Page 12			
\$ _____	_____		
Building/Station Expense:			
Building and Cleaning Supplies			
\$ _____	_____		
Utilities	_____		
_____	_____		
Property Taxes	_____		
_____	_____		
Property Insurance	_____		
_____	_____		
Repairs and Maintenance	_____		
_____	_____		
Other (Attach Schedule)	_____		
_____	_____		
Total	_____		
\$ _____	_____		
Vehicle Expense - Ambulance Units:			
License/Registration			
\$ _____	_____		
Fuel	_____		
_____	_____		
General Vehicle Service and Maintenance	_____		
_____	_____		
Major Repairs	_____		
_____	_____		
Insurance - Service Vehicles	_____		
_____	_____		
Other (Attach Schedule)	_____		
_____	_____		
Total	_____		
\$ _____	_____		
Other Expenses:			
Dispatch			
\$ _____	_____		
Education/Training	_____		
_____	_____		
Uniforms and Uniform Cleaning	_____		
_____	_____		
Meals and Travel for Ambulance Personnel	_____		
_____	_____		
Maintenance Contracts	_____		
_____	_____		
Minor Equipment - Not Capitalized	_____		
_____	_____		

Department of Health Services – Emergency Medical Services

Ambulance Supplies - Nonchargeable	_____
Other (Attach Schedule)	_____
Total	_____
\$	_____
Total Other Operating Expenses (To Page 2, Line 15)	_____
\$	_____

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

OTHER OPERATING EXPENSES

Line No.	OTHER OPERATING EXPENSES	Basis of Allocations
	Depreciation and Amortization:	
01	Depreciation . . . . .	.....
02	Amortization . . . . .	.....
03	Total . . . . .	.....
04	Rent/Lease . . . . .	.....
	Building/Station Expense:	
05	Building and Cleaning Supplies . . . . .	.....
06	Utilities . . . . .	.....
07	Property Taxes . . . . .	.....
08	Property Insurance . . . . .	.....
09	Repairs and Maintenance . . . . .	.....
10	Other (Attach Schedule) . . . . .	.....
11	Total . . . . .	.....
	Vehicle Expense - Ambulance Units:	
12	License/Registration . . . . .	.....
13	Fuel . . . . .	.....
14	General Vehicle Service and Maintenance . . . . .	.....
15	Major Repairs . . . . .	.....
16	Insurance - Service Vehicles . . . . .	.....
17	Other (Attach Schedule) . . . . .	.....
18	Total . . . . .	.....
	Other Expenses:	
19	Dispatch . . . . .	.....
20	Education/Training . . . . .	.....
21	Uniforms and Uniform Cleaning . . . . .	.....
22	Meals and Travel for Ambulance Personnel . . . . .	.....
23	Maintenance Contracts . . . . .	.....
24	Minor Equipment - Not Capitalized . . . . .	.....
25	Ambulance Supplies - Nonchargeable . . . . .	.....
26	Other (Attach Schedule) . . . . .	.....

Department of Health Services – Emergency Medical Services

27 Total

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

DETAIL OF CONTRACTUAL ALLOWANCES

Line No.	Name of Contracting Entity	Total Billable Runs	Gross Billing	Percent	Discount	Allow-
01	_____	_____	_____		_____	

02	_____	_____	_____		_____	

03	_____	_____	_____		_____	

04	_____	_____	_____		_____	

05	_____	_____	_____		_____	

06	_____	_____	_____		_____	

07	_____	_____	_____		_____	

08	_____	_____	_____		_____	

09	_____	_____	_____		_____	

10	_____	_____	_____		_____	

11	_____	_____	_____		_____	

12	_____	_____	_____		_____	

13	_____	_____	_____		_____	

14	_____	_____	_____		_____	

15	_____	_____	_____		_____	

Department of Health Services – Emergency Medical Services

16	_____	_____	_____	_____

17	_____	_____	_____	_____

18	_____	_____	_____	_____

19	_____	_____	_____	_____

20	_____	_____	_____	_____

21	_____	_____	_____	_____

22	Total (To Page 2, Line 4)			_____

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

SUBSCRIPTION SERVICE REVENUE AND
DIRECT SELLING EXPENSES

Line

No. Description

To

01 Billings at Fully Established Rate
\$ _____

Less:

02 AHCCCS Settlement

03 Medicare Settlement

04 Subscription Service Settlements (To Page 2, Line 5)

05 Subscription Service Bad Debt

06 Total
\$ _____

07 Net Revenue from Subscription Service Runs

08 Sales of Subscription Service (To Page 2, Line 9)

09 Other Revenue (Attach Schedule)

10 Total Subscription Service Revenue
\$ _____

Direct Expenses Incurred Selling Subscription Contracts:

11 Salaries/Wages
\$ _____

12 Payroll Taxes

13 Employee Fringe Benefits

14 Professional Services

15 Contract Labor

Department of Health Services – Emergency Medical Services

16	Travel	_____
17	Other General and Administrative Expenses	_____
18	Depreciation/Amortization	_____
19	Rent/Lease	_____
20	Building/Station Expense	_____
21	Transportation/Vehicles	_____
22	Other (Attach Schedule)	_____
23	Total Subscription Service Expenses	(To Page 2, Line 17).....
	\$ _____	

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

OTHER OPERATING REVENUES AND EXPENSES

Line
No. DESCRIPTION

Other Operating Revenues:

01	Supportive Funding - Local (Attach Schedule)	\$ _____
02	Grant Funds - State (Attach Schedule)	_____
03	Grant Funds - Federal (Attach Schedule)	_____
04	Grant Funds - Other (Attach Schedule)	_____
05	Patient Finance Charges	_____
06	Patient Late Payment Charges	_____
07	Interest Earned - Related Person/Organization	_____
08	Interest Earned - Other	_____
09	Gain on Sale of Operating Property	_____
10	Other: _____	_____
11	Other: _____	_____
12	Total Operating Revenue	
	\$ _____	

Other Operating Expenses:

13	Loss on Sale of Operating Property	\$ _____
14	Other: _____	_____
15	Other: _____	_____
16	Total Other Operating Expenses	
	\$ _____	
17	Net Other Operating Revenues and Expenses (To Page 2, Line 20)	
	\$ _____	

Department of Health Services – Emergency Medical Services

Page 9

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

DETAIL OF SALARIES/WAGES
OFFICERS/OWNERS
SCHEDULE 1

Wages Paid by Category

Line No.	Name	Title	% of Ownership	Management	*FTE	EMCT	*FTE	Office	*FTE	Other	*FTE	Totals	
												Wages Paid To Owners	*FTE
01	_____	_____	_____	\$ _____	_____	\$ _____	_____	\$ _____	_____	\$ _____	_____	\$ _____	_____
02	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
03	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
04	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
05	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
06	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____1
07	TOTAL	=====	=====	\$ =====	=====	\$ =====	=====	\$ =====	=====	\$ =====	=====	\$ =====	=====

* Full-time equivalents (F.T.E.) Is the sum of all hours for which employee wages were paid during the year divided by 2080.

1 Total wages paid to owners to Page 4 Col 2 Line 01

2 Total FTEs to Page 4 Col 1 Line 01

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

OPERATING EXPENSES
DETAIL OF SALARIES/WAGES
SCHEDULE II

Line

No. Detail of Salaries/Wages - Other Than Officers/Owners

01 MANAGEMENT:

METHOD OF COMPENSATION:

Certification and/or Title	Scheduled Shifts (I.e. 40 or 60 hours a week)	Wage	Hourly Salary	Annual or Shift	\$s Per Run
_____	_____	_____	_____	_____	
_____	_____		_____	_____	

_____	_____		_____	_____	

_____	_____		_____	_____	

_____	_____		_____	_____	

02 AMBULANCE PERSONNEL:

_____	_____		_____	_____	

_____	_____		_____	_____	

_____	_____		_____	_____	

_____	_____		_____	_____	

_____	_____		_____	_____	

03 OTHER PERSONNEL:

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

**DEPRECIATION AND/OR RENT/LEASE EXPENSE
SCHEDULE III**

**AMBULANCE VEHICLES AND
ACCESSORIAL EQUIPMENT ONLY**

	A	B	C	D	E	F	G	H	I	J	K
Line No.	Description of Property	Date Placed in Service	Cost or Other Basis	Business Use Percent	Basis for Depreciation	Method	Recovery Period	Depreciation Prior Years	Current Year Depreciation	Remaining Basis	Rent/Lease Amount*
01											
02											
03											
04											
05											
06											
07											
08											
09											
10											
11											
12											
13											
14											
15											
16											
17											
18											
19											
20	SUBTOTAL	XXX	XXX	XXX	XXX	XXX	XXX	XXX	1	XXX	2

* Complete Description of property, date placed in service, and rent/lease amount only.
 1 To Page 13, Line 19, Column I
 2 To Page 13, Line 19, Column K

Department of Health Services – Emergency Medical Services

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

DEPRECIATION AND/OR RENT/LEASE EXPENSE
SCHEDULE III

ALL OTHER ITEMS

	A	B	C	D	E	F	G	H	I	J	K
Line No.	Description of Property	Date Placed in Service	Cost or Other Basis	Business Use Percent	Basis for Depreciation	Method	Recovery Period	Depreciation Prior Years	Current Year Depreciation	Remaining Basis	Rent/Lease Amount*
01											
02											
03											
04											
05											
06											
07											
08											
09											
10											
11											
12											
13											
14											
15											
16											
17											
18	SUBTOTAL	XXX	XXX	XXX	XXX	XXX	XXX	XXX		XXX	
19	SUBTOTAL from Page 12, Line 20	XXX	XXX	XXX	XXX	XXX	XXX	XXX		XXX	
20	SUM of Line 18 and 19	XXX	XXX	XXX	XXX	XXX	XXX	XXX	3	XXX	4

* Complete Description of property, date placed in service, and rent/lease amount only.
3 To Page 6, Line 01
4 To Page 6, Line 04

Department of Health Services – Emergency Medical Services

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

DETAIL OF INTEREST - Schedule IV

Interest Expense Line No. Description	(1)	(2) Principal Balance		(4)	(5)
	Interest Rate	Beginning of Period	End of Period	Related Persons or Organizations	Other
Service Vehicles & Accessorial Equipment Name of Payee:					
01 _____	_____ %	\$ _____	\$ _____		\$ _____
02 _____	_____ %	\$ _____	\$ _____		
03 _____	_____ %	\$ _____	\$ _____		
04 _____	_____ %	\$ _____	\$ _____		
Communication Equipment Name of Payee:					
05 _____	_____ %	\$ _____	\$ _____		\$ _____
06 _____	_____ %	\$ _____	\$ _____		
07 _____	_____ %	\$ _____	\$ _____		
Other Property and Equipment Name of Payee:					
08 _____	_____ %	\$ _____	\$ _____		\$ _____
09 _____	_____ %	\$ _____	\$ _____		
10 _____	_____ %	\$ _____	\$ _____		
Working Capital Name of Payee:					
11 _____	_____ %	\$ _____	\$ _____		\$ _____
12 _____	_____ %	\$ _____	\$ _____		
13 _____	_____ %	\$ _____	\$ _____		
Other Name of Payee:					
14 _____	_____ %	\$ _____	\$ _____		\$ _____
15 TOTAL		\$ _____	\$ _____		\$ _____

------(To Page 2, Column 2, Line 16)-----

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

BALANCE SHEET

ASSETS

CURRENT ASSETS

01	Cash	\$ _____	
02	Accounts Receivable	_____	
03	Less: Allowance for Doubtful Accounts	_____	
04	Inventory	_____	
05	Prepaid Expenses	_____	
06	Other Current Assets	_____	
07	TOTAL CURRENT ASSETS		\$ _____

PROPERTY & EQUIPMENT

08	Less: Accumulated Depreciation		\$ _____
----	--------------------------------	--	----------

09	OTHER NONCURRENT ASSETS		\$ _____
----	-------------------------	--	----------

10	TOTAL ASSETS		\$ _____
----	--------------	--	----------

LIABILITIES AND EQUITY

CURRENT LIABILITIES

11	Accounts Payable	\$ _____	
12	Current Portion of Notes Payable	_____	
13	Current Portion of Long Term Debt	_____	
14	Deferred Subscription Income	_____	
15	Accrued Expenses and Other	_____	
16	_____	_____	
17	_____	_____	
18	TOTAL CURRENT LIABILITIES		\$ _____

19	NOTES PAYABLE	_____	
----	---------------	-------	--

20	LONG TERM DEBT OTHER	_____	
----	----------------------	-------	--

21	TOTAL LONG-TERM DEBT		\$ _____
----	----------------------	--	----------

EQUITY AND OTHER CREDITS

Paid-in Capital:

22	Common Stock	\$ _____	
23	Paid-In Capital in Excess of Par Value	_____	
24	Contributed Capital	_____	
25	Retained Earnings	_____	
26	Fund Balances	_____	

27	TOTAL EQUITY		\$ _____
----	--------------	--	----------

Department of Health Services – Emergency Medical Services
28 TOTAL LIABILITIES & EQUITY \$

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

STATEMENT OF CASH FLOWS

OPERATING ACTIVITIES:

01	Net (loss) Income	\$ _____
	Adjustments to reconcile net income to net cash provided by operating activities:	
02	Depreciation Expense	_____
03	Deferred Income Tax	_____
04	Loss (gain) on Disposal of Property and Equipment	_____
	(Increase) Decrease in:	
05	Accounts Receivable	_____
06	Inventories	_____
07	Prepaid Expenses	_____
	(Increase) Decrease in:	
08	Accounts Payable	_____
09	Accrued Expenses	_____
10	Deferred Subscription Income	_____
11	Net Cash Provided (Used) by Operating Activities	\$ _____

INVESTING ACTIVITIES:

12	Purchases of Property and Equipment	\$ _____
13	Proceeds from Disposal of Property and Equipment	_____
14	Purchases of Investments	_____
15	Proceeds from Disposal of Investments	_____
16	Loans Made	_____
17	Collections on Loans	_____
18	Other _____	_____
19	Net Cash Provided (Used) by Investing Activities	\$ _____

FINANCING ACTIVITIES:

	New Borrowings:	
20	Long-Term	\$ _____
21	Short-Term	_____
	Debt Reduction:	
22	Long-Term	_____
23	Short-Term	_____
24	Capital Contributions	_____
25	Dividends paid	_____
26	Net Cash Provided (Used) by Financing Activities	\$ _____
27	Net Increase (Decrease) in Cash	\$ _____
28	Cash at Beginning of Year	\$ _____

	Department of Health Services – Emergency Medical Services	
29	Cash at End of Year	\$ _____
30	SUPPLEMENTAL DISCLOSURES:	
	Non-cash Investing and Financing Transactions:	
31	_____	
	\$ _____	
32	_____	
33	Interest Paid (Net of Amounts Capitalized)	_____
34	Income Taxes Paid	_____

Historical Note

Exhibit 9A renumbered from Exhibit A and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit A. Renumbered

Historical Note

New Exhibit adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). New Exhibit A recodified from Article 12 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2). Exhibit A renumbered to Exhibit 9A by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 9B. Ambulance Revenue and Cost Report, Fire District and Small Rural Company

Department of Health Services

Annual Ambulance Financial Report

Reporting Ambulance Service

Report Fiscal Year

From: / / / **To:** / / /
Mo. Day Year Mo. Day Year

Department of Health Services – Emergency Medical Services

CERTIFICATION

I hereby certify that I have directed the preparation of the enclosed annual report in accordance with the reporting requirements of the State of Arizona.

I have read this report and hereby certify that the information provided is true and correct to the best of my knowledge.

This report has been prepared using the accrual basis of accounting.

Authorized Signature: _____ Date: _____

Print Name and Title: _____

Mail to:

Department of Health Services
Bureau of Emergency Medical Services and Trauma System
Certificate of Necessity and Rates Section
150 North 18th Avenue, Suite 540
Phoenix, AZ 85007
Telephone: (602) 364-3150
Fax: (602) 364-3567

Revised December 2013

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

STATISTICAL SUPPORT DATA

<u>Line No.</u>	<u>DESCRIPTION</u>	(1)	* (2)	(3)	(4)
		<u>SUBSCRIPTION SERVICE TRANSPORTS</u>	<u>TRANSPORTS UNDER CONTRACT</u>	<u>TRANSPORTS NOT UNDER CONTRACT</u>	
TOTALS					
01	Number of ALS Billable Transports:	_____	_____	_____	_____
02	Number of BLS Billable Transports:	_____	_____	_____	_____
03	Number of Loaded Billable Miles:	_____	_____	_____	_____
04	Waiting Time (Hr. & Min.):	_____	_____	_____	_____
05	Canceled (Non-Billable) Runs:	_____	_____	_____	_____

AMBULANCE SERVICE ROUTINE OPERATING REVENUE

06	ALS Base Rate Revenue	\$ _____
07	BLS Base Rate Revenue	_____
08	Mileage Charge Revenue	_____
09	Waiting Charge Revenue	_____
10	Medical Supplies Charge Revenue	_____
11	Nurses Charge Revenue	_____
12	Standby Charge Revenue (Attach Schedule)	_____
13	TOTAL AMBULANCE SERVICE ROUTINE OPERATING REVENUE	\$ _____

SALARY AND WAGE EXPENSE DETAIL

GROSS WAGES:

**No. of F.T.E.s

14	Management	\$ _____	\$ _____
----	------------------	----------	----------

Department of Health Services – Emergency Medical Services

15	Paramedics, EMT-I(99)s, and AEMTs.	\$ _____	\$ _____
16	Emergency Medical Technician (EMT).	\$ _____	\$ _____
17	Other Personnel	\$ _____	\$ _____
18	Payroll Taxes and Fringe Benefits - All Personnel.	\$ _____	\$ _____

*This column reports only those runs where a contracted discount rate was applied.

**Full-time equivalents (F.T.E.) is the sum of all hours for which employees' wages were paid during the year divided by 2080.

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

SCHEDULE OF REVENUES AND EXPENSES

Line	No. DESCRIPTION	FROM	
Operating Revenues:			
01	Total Ambulance Service Operating Revenue	Page 2, Line 13	
	\$ _____		
Settlement Amounts:			
02	AHCCCS		(_____
	↳		
03	Medicare		(_____
	↳		
04	Subscription Service		(_____
	↳		
05	Contractual		(_____
	↳		
06	Other		(_____
	↳		
07	Total (Sum of Lines 02 through 06)		(_____
	↳		
08	Total Operating Revenue (Line 01 minus Line 07)		\$ _____
Operating Expenses:			
09	Bad Debt		
10	Total Salaries, Wages, and Employee- Related Expenses		
	\$ _____		
11	Professional Services		

12	Travel and Entertainment		

13	Other General Administrative		

14	Depreciation		

15	Rent/Leasing		

16	Building/Station		

17	Vehicle Expense		

18	Other Operating Expense		

19	Cost of Medical Supplies Charged to Patients		

Department of Health Services – Emergency Medical Services

20	Interest	
<hr/>		
21	Subscription Service Sales Expense	
<hr/>		
22	Total Operating Expense (Sum of Lines 09 through 21)	
<hr/>		
23	Total Operating Income or Loss (Line 08 minus Line 22).	\$
<hr/>		
24	Subscription Contract Sales	
<hr/>		
25	Other Operating Revenue	
<hr/>		
26	Local Supportive Funding	
<hr/>		
27	Other Non-Operating Income (Attach Schedule).	
<hr/>		
28	Other Non-Operating Expense (Attach Schedule).	
<hr/>		
29	NET INCOME/(LOSS) (Line 23 plus Sum of Lines 24 through 28).	\$
<hr/>		

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

BALANCE SHEET

ASSETS

CURRENT ASSETS

01	Cash	\$ _____	
02	Accounts Receivable	_____	
03	Less: Allowance for Doubtful Accounts	_____	
04	Inventory	_____	
05	Prepaid Expenses	_____	
06	Other Current Assets	_____	
07	TOTAL CURRENT ASSETS		\$ _____

PROPERTY & EQUIPMENT

08	Less: Accumulated Depreciation		\$ _____
----	--------------------------------	--	----------

09	OTHER NONCURRENT ASSETS		\$ _____
----	-------------------------	--	----------

10	TOTAL ASSETS		\$ _____
----	--------------	--	----------

LIABILITIES AND EQUITY

CURRENT LIABILITIES

11	Accounts Payable	\$ _____	
12	Current Portion of Notes Payable	_____	
13	Current Portion of Long term Debt	_____	
14	Deferred Subscription Income	_____	
15	Accrued Expenses and Other	_____	
16	_____	_____	
17	_____	_____	
18	TOTAL CURRENT LIABILITIES		\$ _____

19	NOTES PAYABLE	_____	
----	---------------	-------	--

20	LONG TERM DEBT OTHER	_____	
----	----------------------	-------	--

21	TOTAL LONG-TERM DEBT		\$ _____
----	----------------------	--	----------

EQUITY AND OTHER CREDITS

Paid-in Capital:

22	Common Stock	\$ _____	
23	Paid-In Capital in Excess of Par Value	_____	
24	Contributed Capital	_____	
25	Retained Earnings	_____	
26	Fund Balances	_____	

27	TOTAL EQUITY		\$ _____
----	--------------	--	----------

Department of Health Services – Emergency Medical Services
28 TOTAL LIABILITIES & EQUITY \$

Department of Health Services – Emergency Medical Services
AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ **TO:** _____

STATEMENT OF CASH FLOWS

OPERATING ACTIVITIES:

01	Net (loss) Income	\$ _____	
	Adjustments to reconcile net income to net cash provided by operating activities:		
02	Depreciation Expense	_____	
03	Deferred Income Tax	_____	
04	Loss (gain) on Disposal of Property and Equipment	_____	
	(Increase) Decrease in:		
05	Accounts Receivable	_____	
06	Inventories	_____	
07	Prepaid Expenses	_____	
	(Increase) Decrease in:		
08	Accounts Payable	_____	
09	Accrued Expenses	_____	
10	Deferred Subscription Income	_____	
11	Net Cash Provided (Used) by Operating Activities	\$ _____	

INVESTING ACTIVITIES:

12	Purchases of Property and Equipment	_____	
13	Proceeds from Disposal of Property and Equipment	_____	
14	Purchases of Investments	_____	
15	Proceeds from Disposal of Investments	_____	
16	Loans Made	_____	
17	Collections on Loans	_____	
18	Other _____	_____	
19	Net Cash Provided (Used) by Investing Activities	\$ _____	

FINANCING ACTIVITIES:

	New Borrowings:		
20	Long-Term	_____	
21	Short-Term	_____	
	Debt Reduction:		
22	Long-Term	_____	
23	Short-Term	_____	
24	Capital Contributions	_____	
25	Dividends paid	_____	
26	Net Cash Provided (Used) by Financing Activities	\$ _____	
27	Net Increase (Decrease) in Cash	\$ _____	
28	Cash at Beginning of Year	\$ _____	
29	Cash at End of Year	\$ _____	

30 SUPPLEMENTAL DISCLOSURES:

Non-cash Investing and Financing Transactions:

Department of Health Services – Emergency Medical Services

31	_____	
	\$ _____	
32	_____	
<hr/>		
33	Interest Paid (Net of Amounts Capitalized)	_____
34	Income Taxes Paid	_____

Department of Health Services – Emergency Medical Services
INSTRUCTIONS

Page 1: COVER

1. Enter the name of the ambulance service on the line “Reporting Ambulance Service.”
2. Print the name and title of the ambulance service’s authorized representative on the lines indicated; enter the date of signature; authorized representative must sign the report.

Page 2: STATISTICAL SUPPORT DATA and ROUTINE OPERATING REVENUE

Enter the ambulance service’s business name and the appropriate reporting period.

Statistical Support Data:

- Lines 01-02: Enter the number of billable ALS and BLS transports for each of the three categories. Subscription Service Transports should not be included with Transports Under Contract.
- Lines 03-04: Enter the total of patient loaded transport miles and waiting times for each of the transport categories.
- Line 05: List TOTAL of canceled/non-billable runs.

Ambulance Service Routine Operating Revenue:

- Line 06: Enter the total amount of all ALS Base Rate gross billings.
- Line 07: Enter the total amount of all BLS Base Rate gross billings.
- Line 08: Enter the total of Mileage Charge gross billings.
- Line 09: Enter the total Waiting Time gross billings.
- Line 10: Enter the total of all gross billings of Medical Supplies to patients.
- Line 11: RESERVED FOR FUTURE USE - Charges for Nurses currently are not allowed.
- Line 12: Enter the total of all Standby Time charges. (Attach a schedule showing sources.)
- Line 13: Add the totals from Line 06 through Line 12. Enter sum on Line 13.

Salary and Wage Expense Detail:

- Line 14: Enter the total salary amount allocated and paid to Management of the ambulance service.
- Line 15: Enter the total salary amount allocated and paid to Paramedics, EMT-I(99)s, and AEMTs.
- Line 16: Enter the total salary amount allocated and paid to Emergency Medical Technicians (EMTs).
- Line 17: Enter the total salary amount allocated and paid to Other Personnel involved with the ambulance service. (Examples: Dispatch, Mechanics, Office)
- Line 18: Enter the total allocated amount of Payroll Taxes and Fringe Benefits paid to employees included in lines 14 through 17.

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EXPENSE CATEGORIES FOR USE ON PAGE 3

- Line 09 Bad Debt
- Line 10 Total Salaries, Wages, and Employee-Related Expenses
 - Salaries, Wages, Payroll Taxes, and Employee Benefits
- Line 11 Professional Services
 - Legal/Management Fees
 - Collection Fees
 - Accounting/Auditing
 - Data Processing Fees
- Line 12 Travel and Entertainment (Administrative)
 - Meals and Entertainment
 - Travel/Transportation
- Line 13 Other General and Administrative
 - Office Related (Supplies, Phone, Postage, Advertising)
 - Professional Liability Insurance
 - Dues, Subscriptions, Miscellaneous
- Line 14 Depreciation
- Line 15 Rent/Leasing
- Line 16 Building/Station
 - Utilities, Property Taxes/Insurance, Cleaning/Maintenance
- Line 17 Vehicle Expenses
 - License/Registration
 - Repairs/Maintenance
 - Insurance
- Line 18 Other Operating Expenses
 - Dispatch Contracts
 - Employee Education/Training, Uniforms, Travel/Meals
 - Maintenance Contracts
 - Minor Equipment, Non-Chargeable Ambulance Supplies
- Line 19 Cost of Medical Supplies Charged to Patients
- Line 20 Interest Expense
 - Interest on: Bank Loans/Lines of Credit
- Line 21 Subscription Service Sales Expenses
 - Sales Commissions, Printing

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INSTRUCTIONS (cont'd)

Page 3: SCHEDULE OF REVENUES AND EXPENSES

Operating Revenues:

- Line 01: Transfer appropriate total from Page 2 as indicated.
- Line 02: Enter settlement amounts from AHCCCS transports. (DO NOT include settlement amounts resulting from a transport made under a SUBSCRIPTION SERVICE CONTRACT)
- Line 03: Enter settlement amounts from Medicare transports. (DO NOT include settlement amounts resulting from a transport made under a SUBSCRIPTION SERVICE CONTRACT)
- Line 04: Enter total of ALL settlement amounts from Subscription Service Contract transports.
- Line 05: Enter total of ALL settlement amounts from Contractual transports only.

- Line 06: Enter total from any other settlement sources.

- Line 07: Enter sum of lines 02 through 06.
- Line 08: Total Operating Revenue (The amount from Line 01 minus Line 07).

Operating Expenses:

- Lines 09-21: Report as either actual or allocated from expenses shared with Fire or other departments.
- Line 22: Enter the total sum of lines 09 through 21.

- Line 23: Enter the difference of line 08 minus line 22.

- Line 24: Enter the gross amount of sales from Subscription Service Contracts.
- Line 25: Enter the amount of Other Operating Revenues.
Ex: Federal, State or Local Grants, Interest Earned, Patient Finance Charges.

- Line 26: Enter the total of Local Supportive Funding.
- Line 27: List other non-operating revenues (Ex: Donations, sales of assets, fund raisers).

- Line 28: List other non-operating expenses (Ex: Civil fines or penalties, loss on sale of assets).
- Line 29: Net Income (Line 23 plus Lines 24 through 27, minus Line 28).

Page 4: BALANCE SHEET

Current audited financial statements may be submitted in lieu of this page.

Page 5: STATEMENT OF CASH FLOWS

Current audited financial statements may be submitted in lieu of this page.

Questions regarding this reporting form can be submitted to:

Arizona Department of Health Services
Bureau of Emergency Medical Services and Trauma System
Certificate of Necessity and Rates Section

150 North 18th Avenue, Suite 540
Phoenix, AZ 85007
Telephone: (602) 364-3150
Fax: (602) 364-3567

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Historical Note

Exhibit 9B renumbered from Exhibit B and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit B. Renumbered

Historical Note

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). New Exhibit B recodified from Article 12 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2). Exhibit B renumbered to Exhibit 9B by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION

R9-25-1001. Initial and Renewal Application for a Certificate of Registration (A.R.S. §§ 36-2212, 36-2232, 36-2240)

- A.** A person applying for an initial or renewal certificate of registration of a ground ambulance vehicle shall submit an application form to the Department that contains:
1. The applicant's legal business or corporate name;
 2. The applicant's mailing address, physical address of the business, and business, facsimile, and emergency telephone numbers;
 3. The identifying information of the ground ambulance vehicle, including:
 - a. The make of the ground ambulance vehicle;
 - b. The ground ambulance vehicle manufacture year;
 - c. The ground ambulance vehicle identification number;
 - d. The unit number of the ground ambulance vehicle;
 - e. The ground ambulance vehicle's state license number; and
 - f. The location at which the ground ambulance vehicle will be available for inspection;
 4. The identification number of the certificate of necessity to which the ground ambulance vehicle is registered;
 5. The name and telephone number of the person to contact to arrange for inspection, if the inspection is pre-announced; and
 6. The signature of the applicant or applicant's designated representative.
- B.** Under A.R.S. § 36-2232(A)(11), the Department shall inspect each ambulance before an initial certificate of registration is issued by the Department.
- C.** Under A.R.S. § 36-2232(A)(11), the Department shall either inspect an ambulance or receive an inspection report that meets the requirements in this Article by a Department-approved inspection facility before a renewal certificate of registration is issued by the Department.
- D.** An applicant shall submit the following fees:
1. \$50 application filing fee for an initial certificate of registration;
 2. \$200 annual regulatory fee for each ground ambulance vehicle issued a certificate of registration; and
 3. \$50 application filing fee for the renewal of a certificate of registration.
- E.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1002. Minimum Standards for Ground Ambulance Vehicles (Authorized by A.R.S. § 36-2202(A)(5))

- An applicant for a certificate of registration or certificate holder shall ensure a ground ambulance vehicle is equipped with the following:
1. An engine intake air cleaner that meets the ground ambulance vehicle manufacturer's engine specifications;
 2. A brake system that meets the requirements in A.R.S. § 28-952;
 3. A cooling system in the engine compartment that maintains the engine temperature operating range required to prevent damage to the ground ambulance vehicle engine;
 4. A battery:
 - a. With no leaks, corrosion, or other visible defects; and
 - b. As measured by a voltage meter, capable of generating:
 - i. 12.6 volts at rest, and
 - ii. 13.2 to 14.2 volts on high idle with all electrical equipment turned on;
 5. A wiring system in the engine compartment designed to prevent the wire from being cut by or tangled in the engine or hood;

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6. Hoses, belts, and wiring with no visible defects;
7. An electrical system capable of maintaining a positive amperage charge while the ground ambulance vehicle is stationary and operating at high idle with headlights, running lights, patient compartment lights, environmental systems, and all warning devices turned on;
8. An exhaust pipe, muffler, and tailpipe under the ground ambulance vehicle and securely attached to the chassis;
9. A frame capable of supporting the gross vehicle weight of the ground ambulance vehicle;
10. A horn that meets the requirements in A.R.S. § 28-954(A);
11. A siren that meets the requirements in A.R.S. § 28-954(E);
12. A front bumper that is positioned at the forward-most part of the ground ambulance vehicle extending to the ground ambulance vehicle's outer edges;
13. A fuel cap of a type specified by the manufacturer for each fuel tank;
14. A steering system to include:
 - a. Power-steering belts free from frays, cracks, or slippage;
 - b. Power-steering that is free from leaks;
 - c. Fluid in the power-steering system that fills the reservoir between the full level and the add level indicator on the dipstick; and
 - d. Bracing extending from the center of the steering wheel to the steering wheel ring that is not cracked;
15. Front and rear shock absorbers that are free from leaks;
16. Tires on each axle that:
 - a. Are properly inflated;
 - b. Are of equal size, equal ply ratings, and equal type;
 - c. Are free of bumps, knots, or bulges;
 - d. Have no exposed ply or belting; and
 - e. Have tread groove depth equal to or more than 4/32 inch;
17. An air cooling system capable of achieving and maintaining a 20° F difference between the air intake and the cool air outlet;
18. Air cooling and heater hoses secured in all areas of the ground ambulance vehicle and chassis to prevent wear due to vibration;
19. Body free of damage or rust that interferes with the physical operation of the ground ambulance vehicle or creates a hole in the driver's compartment or the patient compartment;
20. Windshield defrosting and defogging equipment;
21. Emergency warning lights that provide 360° conspicuity;
22. At least one 5-lb. ABC dry, chemical, multi-purpose fire extinguisher in a quick release bracket with a current inspection tag;
23. A heating system capable of achieving and maintaining a temperature of not less than 68° F in the patient compartment within 30 minutes;
24. Sides of the ground ambulance vehicle insulated and sealed to prevent dust, dirt, water, carbon monoxide, and gas fumes from entering the interior of the patient compartment and to reduce noise;
25. Interior patient compartment wall and floor coverings that are:
 - a. In good repair and capable of being disinfected, and
 - b. Maintained in a sanitary manner;
26. Padding over exit areas from the patient compartment and over sharp edges in the patient compartment;
27. Secured interior equipment and other objects;
28. When present, hangers or supports for equipment mounted not to protrude more than 2 inches when not in use;
29. Functional lamps and signals, including:
 - a. Bright and dim headlamps,
 - b. Brake lamps,
 - c. Parking lamps,
 - d. Backup lamps,
 - e. Tail lamps,
 - f. Turn signal lamps,
 - g. Side marker lamps,
 - h. Hazard lamps,
 - i. Patient loading door lamps and side spot lamps,
 - j. Spot lamp in the driver's compartment and within reach of the ambulance attendant, and
 - k. Patient compartment interior lamps;
30. Side-mounted rear vision mirrors and wide vision mirror mounted on, or attached to, the side-mounted rear vision mirrors;
31. A patient loading door that permits the safe loading and unloading of a patient occupying a stretcher in a supine position;
32. At least two means of egress from the patient compartment to the outside through a window or door;
33. Functional open door securing devices on a patient loading door;
34. Patient compartment upholstery free of cuts or tears and capable of being disinfected;
35. A seat belt installed for each seat in the driver's compartment;
36. Belts or devices installed on a stretcher to be used to secure a patient;
37. A seat belt installed for each seat in the patient compartment;
38. A crash stable side or center mounting fastener of the quick release type to secure a stretcher to a ground ambulance vehicle;

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39. Windshield and windows free of obstruction;
40. A windshield free from unrepaired starred cracks and line cracks that extend more than 1 inch from the bottom and sides of the windshield or that extend more than 2 inches from the top of the windshield;
41. A windshield-washer system that applies enough cleaning solution to clear the windshield;
42. Operable windshield wipers with a minimum of two speeds;
43. Functional hood latch for the engine compartment;
44. Fuel system with fuel tanks and lines that meets manufacturer's specifications;
45. Suspension system that meets the ground ambulance vehicle manufacturer's specifications;
46. Instrument panel that meets the ground ambulance vehicle manufacturer's specifications; and
47. Wheels that meet and are mounted according to manufacturer's specifications.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-1003. Minimum Equipment and Supplies for Ground Ambulance Vehicles (Authorized by A.R.S. § 36-2202(A)(5))

- A. A ground ambulance vehicle used for either BLS or ALS level of service shall contain the following operational equipment and supplies:
1. A portable and a fixed suction apparatus;
 2. Wide-bore tubing, a rigid pharyngeal curved suction tip, and a flexible suction catheter in the following French sizes:
 - a. Two in 6, 8, or 10; and
 - b. Two in 12, 14, or 16;
 3. One fixed oxygen cylinder or equivalent with a minimum capacity of 106 cubic feet, a minimum pressure of 500 p.s.i., and a variable flow regulator;
 4. One portable oxygen cylinder with a minimum capacity of 13 cubic feet, a minimum pressure of 500 p.s.i., and a variable flow regulator;
 5. Oxygen administration equipment including: tubing, two adult-size and two pediatric-size non-rebreather masks, and two adult-size and two pediatric-size nasal cannula;
 6. One adult-size, one child-size, one infant-size, and one neonate-size hand-operated, disposable, self-expanding bag-valve with one of each size bag-valve mask;
 7. Nasal airways in the following French sizes:
 - a. One in 16, 18, 20, 22, or 24; and
 - b. One in 26, 28, 30, 32, or 34;
 8. Two adult-size, two child-size, and two infant-size oropharyngeal airways;
 9. Two large-size, two medium-size, and two small-size cervical immobilization devices;
 10. Two small-size, two medium-size, and two large size upper extremities splints;
 11. Two small-size, two medium-size, and two large size lower extremities splints;
 12. One child-size and one adult-size lower extremity traction splints;
 13. Two full-length spine boards;
 14. Supplies to secure a patient to a spine board;
 15. One cervical-thoracic spinal immobilization device for extrication;
 16. Two sterile burn sheets;
 17. Two triangular bandages;
 18. Three sterile multi-trauma dressings, 10" x 30" or larger;
 19. Fifty non-sterile 4" x 4" gauze sponges;
 20. Ten non-sterile soft roller bandages, 4" or larger;
 21. Four sterile occlusive dressings, 3" x 8" or larger;
 22. Two 2" or 3" adhesive tape rolls;
 23. Containers for biohazardous medical waste that comply with requirements in 18 A.A.C. 13, Article 14;
 24. A sterile obstetrical kit containing towels, 4" x 4" dressing, scissors, bulb suction, and clamps or tape for cord;
 25. One blood glucose testing kit;
 26. A meconium aspirator adapter;
 27. A length/weight-based pediatric reference guide to determine the appropriate size of medical equipment and drug dosing;
 28. A pulse oximeter with both pediatric and adult probes;
 29. One child-size, one adult-size, and one large adult-size sphygmomanometer;
 30. One stethoscope;
 31. One heavy duty scissors capable of cutting clothing, belts, or boots;
 32. Two blankets;
 33. One thermal absorbent blanket with head cover or blanket of other appropriate heat-reflective material;
 34. Two sheets;
 35. Body substance isolation equipment, including:
 - a. Two pairs of non-sterile disposable gloves;
 - b. Two gowns;

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- c. Two masks that are at least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator, which may be of universal size;
 - d. Two pairs of shoe coverings; and
 - e. Two sets of protective eye wear;
36. At least three pairs of non-latex gloves; and
37. A wheeled, multi-level stretcher that is:
- a. Suitable for supporting a patient at each level,
 - b. At least 69 inches long and 20 inches wide,
 - c. Rated for use with a patient weighing up to or more than 350 pounds,
 - d. Adjustable to allow a patient to recline and to elevate the patient's head and upper torso to an angle at least 70° from the horizontal plane,
 - e. Equipped with a mattress that has a protective cover,
 - f. Equipped with at least two attached straps to secure a patient during transport, and
 - g. Equipped to secure the stretcher to the interior of the vehicle during transport using the fastener required under R9-25-1002(38).
- B.** In addition to the equipment and supplies in subsection (A), a ground ambulance vehicle equipped to provide BLS shall contain at least:
1. The minimum supply of agents required in Table 5.2 for an EMT;
 2. By January 1, 2016, the capability of providing automated external defibrillation;
 3. Two 3 mL syringes; and
 4. Two 10-12 mL syringes.
- C.** In addition to the equipment and supplies in subsection (A), a ground ambulance vehicle equipped to provide ALS shall contain at least the minimum supply of agents required in Table 5.2 for the highest level of service to be provided by the ambulance's crew and at least the following:
1. Four intravenous solution administration sets capable of delivering 10 drops per cc;
 2. Four intravenous solution administration sets capable of delivering 60 drops per cc;
 3. Intravenous catheters in:
 - a. Three different sizes from 14 gauge to 20 gauge, and
 - b. Either 22 or 24 gauge;
 4. One child-size and one adult-size intraosseous needle;
 5. Venous tourniquet;
 6. Two endotracheal tubes in each of the following sizes: 2.5 mm, 3.0 mm, 3.5 mm, 4.0 mm, 4.5 mm, 5.0 mm, 5.5 mm, 6.0 mm, 7.0 mm, 8.0 mm, and 9.0 mm;
 7. One pediatric-size and one adult-size stylette for endotracheal tubes;
 8. End tidal CO₂ monitoring/capnography equipment with capability for pediatric and adult patients;
 9. One laryngoscope with blades in sizes 0-4, straight or curved or both;
 10. One pediatric-size and one adult-size Magill forceps;
 11. One scalpel;
 12. One portable, battery-operated cardiac monitor-defibrillator with strip chart recorder and adult and pediatric EKG electrodes and defibrillation capabilities;
 13. Electrocardiogram leads;
 14. The following syringes:
 - a. Two 1 mL tuberculin,
 - b. Four 3 mL,
 - c. Four 5 mL,
 - d. Four 10-12 mL,
 - e. Two 20 mL, and
 - f. Two 50-60 mL;
 15. Three 5 micron filter needles; and
 16. Assorted sizes of non-filter needles.
- D.** A ground ambulance vehicle shall be equipped to provide, and capable of providing, voice communication between:
1. The ambulance attendant and the dispatch center;
 2. The ambulance attendant and the ground ambulance service's assigned medical direction authority, if any; and
 3. The ambulance attendant in the patient compartment and the ground ambulance service's assigned medical direction authority, if any.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

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R9-25-1004. Minimum Staffing Requirements for Ground Ambulance Vehicles (Authorized by A.R.S. §§ 36-2201(4), 36-2202(A)(5))

When transporting a patient, a ground ambulance service shall staff a ground ambulance vehicle according to A.R.S. § 36-2202(J).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-1005. Ground Ambulance Vehicle Inspection; Major and Minor Defects (A.R.S. §§ 36-2202(A)(5), 36-2212, 36-2232, 36-2234)

- A. A certificate holder shall make the ground ambulance vehicle, equipment, and supplies available for inspection at the request of the Director or the Director’s authorized representative.
- B. If inspected by the Department, a certificate holder shall allow the Director or the Director’s authorized representative to ride in or operate the ground ambulance vehicle being inspected.
- C. A certificate holder may request the Department to inspect all of the certificate holder’s ground ambulance vehicles at the same date and location.
- D. A Department-approved inspection facility may inspect a ground ambulance vehicle under A.R.S. § 36-2232(A)(11).
- E. The Department classifies defects on a ground ambulance vehicle as major or minor as follows:

INSPECTION ITEM	MAJOR DEFECT	MINOR DEFECT
LAMPS:		
Emergency warning lights	Lack of 360° of conspicuity	Cracked, broken, or missing lens Inoperative lamps
Back-up lamps		Inoperative Cracked, broken, or missing lens
Brake lamps	Both inoperative	1 inoperative
Hazard lamps		Inoperative
Head lamps	Inoperative	High beam inoperative Low beam inoperative Inoperative dimmer switch
Loading lamps		Inoperative Cracked, broken, or missing lens
Parking lamps		Inoperative
Patient Compartment interior lamps	All lamps inoperative	Inoperative individual lamps Missing lens
Side marker lamps		Inoperative Cracked, broken, or missing lens
Spot lamp in driver’s compartment		Inoperative
Tail lamps	Both inoperative	1 inoperative Cracked, broken, or missing lens
Turn signal lamps		Any turn signal lamp inoperative Cracked, broken, or missing lens
MECHANICAL, STRUCTURAL, ELECTRICAL:		
Bumpers		Loose or missing bumper
Defroster		Inoperative Ventilation system openings partially blocked
Electrical system	Does not comply with R9-25-1002(6)	
Engine compartment		Inoperative hood latch Deterioration of hoses, belts, or wiring Deterioration of battery hold-down clamps Corrosive acid buildup on battery terminals Incapable of generating voltage in com-

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		pliance with R9-25-1002(4)(b)
Engine compartment wiring system		Does not comply with R9-25-1002(5)
Engine cooling system	Does not comply with R9-25-1002(3)	Leaks in system
Engine intake air cleaner		Does not comply with R9-25-1002(1)
Exhaust	Exhaust fumes in the patient or driver compartment	Exhaust pipe brackets not securely attached to the chassis and tailpipe End of tailpipe pinched or bent
Frame	Cracks in frame	
Fuel system	Fuel tank not mounted according to manufacturer's specifications Fuel tank brackets cracked or broken Leaking fuel tanks or fuel lines Fuel caps missing or of a type not specified by the manufacturer	
Ground ambulance vehicle body	Damage or rust to the exterior of the ground ambulance vehicle, which interferes with the operation of the ground ambulance vehicle Damage resulting in a hole in the driver's compartment or the patient compartment Holes that may allow exhaust or dust to enter the patient compartment Bolts attaching body to chassis loose, broken, or missing	Damage resulting in cuts or rips to the exterior of the ground ambulance vehicle
Heating and air conditioning systems		Unsecured hoses Does not maintain minimum temperature required in R9-25-1002(23) and 1002(17)
Horn		Inoperative
Parking brake		Inoperative
Siren	Inoperative	
Steering	Steering wheel bracing cracked Inoperative	Power steering belts slipping Power steering belts cracked or frayed Fluid leaks Fluid does not fill the reservoir between the full level and the add level indicator on the dipstick
Suspension	Broken suspension parts U-bolts loose or missing	Bent suspension parts Leaking shock absorbers Cracks or breaks in shock absorber mounting brackets
Vehicle brakes	Inoperative	Fluid leaks
INTERIOR:		
Communication equipment	Lack of operative communication equipment	Inoperative communication equipment in the patient compartment
Edges		Presence of exposed sharp edges
Equipment	Inability to secure oxygen tanks	Inability to secure other equipment

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Fire extinguisher	Absent	Not at full charge Expired inspection tag
Hangers		Supports or hangers protruding more than 2” when not in use
Instrument panel		Inoperative gauges, switches, or illumination
Padding		Missing padding over exits in the patient compartment
Patient compartment	Visible blood, body fluids, or tissue	Unrepaired cuts or holes in seats Missing pieces of floor covering
Seat belts and securing belts	Absence of seat belt or inoperative seat belt in the driver’s compartment More than one inoperative seat belt in the patient compartment Absence of securing belts on a stretcher	Frayed seat belt or securing belt material One inoperative seat belt in the patient compartment
Stretcher fastener	Does not comply with R9-25-1002(36)	
EXTERIOR:		
Patient compartment doors	Completely or partially missing window panel	Inoperative open door securing devices Cracked window panels
Marking		Missing company identification Incorrect size or location
Mirrors	Exterior rear vision or wide vision mirrors missing	Cracked mirror glass Loose mounting bracket bolts or screws Broken mirrors Loose or broken mounting brackets Missing mounting bracket bolts or screws
Tires	Tires on each axle are not of equal size, equal ply ratings, and equal type Bumps, knots, or bulges on any tire Exposed ply or belting on any tire Flat tire on any wheel	Tread groove depth less than 4/32” measured in a tread groove on any tire
Wheels	Loose or missing lug nuts Broken lugs Cracked or bent rims	
Windows		Placement of nontransparent materials which obstruct view Cracked or broken
Windshield	Windshield that is obstructed Placement of nontransparent materials which obstruct view	Unrepaired starred cracks or line cracks extending more than 1 inch from the bottom or side of the windshield Unrepaired starred cracks or line cracks extending more than 2 inches from the top of the windshield
Windshield- washer system		Does not comply with R9-25-1002(39)
Windshield wipers	Inoperative wiper on driver’s side	Inoperative speed control Split or cracked wiper blade Inoperative wiper on passenger’s side

- F. If the Department determines that there is a major defect on the ground ambulance vehicle after inspection, the certificate holder shall take the ground ambulance vehicle out-of-service until the defect is corrected.
- G. If the Department finds a minor defect on the ground ambulance vehicle after inspection, the ground ambulance vehicle may be operated to transport patients for up to 15 days until the minor defect is corrected.
 - 1. The Department may grant an extension of time to repair the minor defect upon a written request from the certificate holder detailing the reasons for the need of an extension of time.

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2. If the minor defect is not repaired within the time prescribed by the Department, and an extension has not been granted, the certificate holder shall take the ground ambulance vehicle out-of-service until the minor defect is corrected.
- H. Within 15 days of the date of repair of the major or minor defect, the certificate holder shall submit written notice of the repair to the Department.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1006. Ground Ambulance Vehicle Identification (A.R.S. §§ 36-2212, 36-2232)

- A. A ground ambulance vehicle shall be marked on its sides with the certificate of registration applicant's legal business or corporate name with letters not less than 6 inches in height.
- B. A ground ambulance vehicle marked with a level of ground ambulance service shall be equipped and staffed to provide the level of ground ambulance service identified while in service.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

ARTICLE 11. GROUND AMBULANCE SERVICE RATES AND CHARGES; CONTRACTS

R9-25-1101. Application for Establishment of Initial General Public Rates (A.R.S. §§ 36-2232, 36-2239)

- A. An applicant for a certificate of necessity or a certificate holder applying for initial general public rates shall submit an application packet to the Department that includes:
 1. The applicant's name;
 2. The requested general public rates;
 3. A copy of the applicant's most recent financial statements or an Ambulance Revenue and Cost Report;
 4. For a consecutive 12-month period:
 - a. A projected income statement; and
 - b. A projected cash-flow statement;
 5. A list of all purchase agreements or lease agreements for real estate, ground ambulance vehicles, and equipment exceeding \$5,000 used in connection with the ground ambulance service, that includes the monetary amount and duration of each agreement;
 6. The identification of:
 - a. Each of the applicant's affiliations, such as a parent company or subsidiary owned or operated by the applicant; and
 - b. The methodology and calculations used in allocating costs among the applicant and government entities or profit or not-for-profit businesses;
 7. A copy of the applicant's contract with each federal or tribal entity for ground ambulance service, if applicable;
 8. Other documents, exhibits, or statements that may assist the Department in setting the general public rates;
 9. An attestation signed by the applicant that the information and documents provided by the applicant are true and correct; and
 10. Any other information or documents requested by the Director to clarify or complete the application.
- B. The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1102. Application for Adjustment of General Public Rates (A.R.S. §§ 36-2234, 36-2239)

- A. A certificate of necessity holder applying for an adjustment of general public rates not exceeding the monetary amount calculated according to A.R.S. § 36-2234(E) shall submit an application form to the Department that includes:
 1. The name of the applicant;
 2. A statement that the applicant is making the request according to A.R.S. § 36-2234(E);
 3. A statement that the applicant has not applied for an adjustment to its general public rates within the last six months;
 4. The effective date of the proposed general public rate adjustment; and
 5. An attestation signed by the applicant that the information and documents provided by the applicant are true and correct.
- B. An applicant requesting an adjustment of general public rates exceeding the monetary amount calculated according to A.R.S. § 36-2234(E) shall submit an application packet to the Department that includes:
 1. The name of the applicant;
 2. A statement that the applicant is making the request according to A.R.S. § 36-2234(A);
 3. The reason for the general public rate adjustment request;
 4. A statement that the applicant has not applied for an adjustment to its general public rates within the last six months;
 5. The effective date of the proposed general public rate adjustment;
 6. A copy of the applicant's most recent financial statements;
 7. A copy of the Ambulance Revenue and Cost Report;
 8. For a consecutive 12-month period:
 - a. A projected income statement; and
 - b. A projected cash-flow statement;

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9. A list of all purchase agreements or lease agreements for real estate, ground ambulance vehicle, and equipment exceeding \$5,000 used in connection with the ground ambulance service, that includes the monetary amount and duration of each agreement;
 10. The identification of:
 - a. Each of the applicant's affiliations, such as a parent company or subsidiary owned or operated by the applicant; and
 - b. The methodology and calculations used in allocating costs among the applicant and government entities or profit or not for profit businesses;
 11. A copy of the applicant's contract with each federal or tribal entity for a ground ambulance service, if applicable;
 12. Other documents, exhibits, or statements that may assist the Department in setting the general public rates;
 13. An attestation signed by the applicant that the information and documents provided by the applicant are true and correct; and
 14. Any other information or documents requested by the Director to clarify or complete the application.
- C. The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1103. Application for a Contract Rate or Range of Rates Less than General Public Rates (A.R.S. §§ 36-2234(G) and (I), 36-2239)

- A. Before providing interfacility transports or convalescent transports, a certificate holder shall apply to the Department for approval of a contract rate or range of contract rates under A.R.S. § 36-2234(G).
1. For a contract rate or range of rates under A.R.S. § 36-2234(G), the certificate holder shall submit an application form to the Department that contains:
 - a. The name of the certificate holder;
 - b. A statement that the certificate holder is making the request under A.R.S. § 36-2234(G);
 - c. The contract rate or range of rates being requested; and
 - d. Information demonstrating the cost and economics of providing the transports for the requested contract rate or range of rates.
 2. For a contract rate or range of rates under A.R.S. § 36-2234(I), the certificate holder shall submit the information required in R9-25-1102(B)(1) and (B)(6) through (B)(14).
- B. The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1104. Ground Ambulance Service Contracts (A.R.S. §§ 36-2232, 36-2234(K))

- A. Before implementing a ground ambulance service contract, a certificate holder shall submit to the Department for approval a copy of the contract with a cover letter that indicates the total number of pages in the contract. The contract shall:
1. Include the certificate holder's legal name and any other name listed on the certificate holder's initial application required in R9-25-902(A)(1)(a);
 2. List the contract rate or range of rates approved by the Director according to R9-25-1101, R9-25-1102, or R9-25-1103;
 3. Comply with A.R.S. §§ 36-2201 through 36-2246 and 9 A.A.C 25; and
 4. Not preclude use of the 9-1-1 system or a similarly designated emergency telephone number.
- B. The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1105. Application for Provision of Subscription Service or to Establish a Subscription Service Rate (A.R.S. § 36-2232(A)(1))

- A. A certificate holder applying to provide subscription service, establish a subscription service rate, or request approval of a subscription service contract shall submit an application packet to the Department that includes:
1. The following information:
 - a. The number of estimated subscription service contracts and documents supporting the estimate, such as a survey of the service area;
 - b. An estimate of the number of annual subscription service transports for the service area;
 - c. The proposed subscription service rate;
 - d. An estimate of the cost of providing subscription service to the service area; and
 - e. Any other information or documents that the certificate holder believes may assist the Department in setting a subscription service rate; and
 2. A copy of the proposed subscription service contract.
- B. The Department shall approve or deny a subscription service rate under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section heading corrected at request of the Department, Office File No. M11-313, filed September 12, 2011 (Supp. 10-4).

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R9-25-1106. Rate of Return Setting Considerations (A.R.S. §§ 36-2232, 36-2239)

- A. In determining the rate of return on gross revenue in A.R.S. § 36-2239(I)(4), the Director shall consider a ground ambulance service's:
1. Direct and indirect costs for operating the ground ambulance service within its service area;
 2. Balance sheet;
 3. Income statement;
 4. Cash flow statement;
 5. Ratio between variable and fixed costs on the financial statements;
 6. Method of indirect costs allocation to specific cost-center areas;
 7. Return on equity;
 8. Reimbursable and non-reimbursable charges;
 9. Type of business entity;
 10. Monetary amount and type of debt financing;
 11. Replacement and expansion costs;
 12. Number of calls, transports, and billable miles;
 13. Costs associated with rules, inspections, and audits;
 14. Substantiated prior reported losses;
 15. Medicare and AHCCCS settlements; and
 16. Any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents.
- B. In determining the rate of return on gross revenue in A.R.S. § 36-2239(I)(4), the Director shall not consider:
1. Depreciation of the portion of ground ambulance vehicles and equipment obtained through Department funding,
 2. The certificate holder's travel and entertainment expenses that do not directly relate to providing the ground ambulance service,
 3. The monetary value of any goodwill accumulated by the certificate holder,
 4. Any penalties or fines imposed on the certificate holder by a court or government agency, and
 5. Any financial contributions received by the certificate holder.
- C. In determining just, reasonable, and sufficient rates in A.R.S. § 36-2232(A)(1) the director shall establish rates to provide for a rate of return that is at least 7% of gross revenue, calculated using the accrual method of accounting according to generally accepted accounting principles, unless the certificate holder requests a lower rate of return.
- D. Rate of return on gross revenue is calculated by dividing Ambulance Revenue and Cost Report Exhibit A or Exhibit B net income or loss by gross revenue.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1107. Rate Calculation Factors (A.R.S. § 36-2232)

- A. When evaluating a proposed mileage rate, the Department shall consider the following factors:
1. The cost of licensure and registration of each ground ambulance vehicle;
 2. The cost of fuel;
 3. The cost of ground ambulance vehicle maintenance;
 4. The cost of ground ambulance vehicle repair;
 5. The cost of tires;
 6. The cost of ground ambulance vehicle insurance;
 7. The cost of mechanic wages, benefits, and payroll taxes;
 8. The cost of loan interest related to the ground ambulance vehicles;
 9. The cost of the weighted allocation of overhead;
 10. The cost of ground ambulance vehicle depreciation;
 11. The cost of reserves for replacement of ground ambulance vehicles and equipment; and
 12. Mileage reimbursement as established by Medicare guidelines for ground ambulance service.
- B. When evaluating a proposed BLS base rate, the Department shall consider the costs associated with providing EMS and transport.
- C. When evaluating a proposed ALS base rate, the Department shall consider the factors in subsection (B) and the additional costs of ALS ambulance equipment and ALS personnel.
- D. In evaluating rates, the Director shall make adjustments to a certificate holder's rates to maximize Medicare reimbursements.
- E. The Department shall determine the standby waiting rate by dividing the BLS base rate by 4.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1108. Implementation of Rates and Charges (A.R.S. §§ 36-2232, 36-2239)

- A. A certificate holder shall assess rates and charges as follows:
1. When calculating a rate or charge, the certificate holder shall:
 - a. Omit fractions of less than 1/2 of 1 cent; or
 - b. Increase to the next whole cent, fractions of 1/2 of 1 cent or greater.
 2. The certificate holder shall calculate the number of miles for a transport by using:
 - a. The ground ambulance vehicle's odometer reading; or
 - b. A regional map.

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3. The certificate holder shall calculate the reimbursement amount for mileage of a transport by multiplying the number of miles for the transport by the mileage rate.
 4. When transporting two or more patients in the same ground ambulance vehicle, the certificate holder shall assess each patient:
 - a. Fifty percent of the mileage rate and one hundred percent of the ALS or BLS base rate; and
 - b. One hundred percent of:
 - i. The charge for each disposable supply, medical supply, medication, and oxygen-related cost used on the patient; and
 - ii. Waiting time assessed according to subsection (C).
 5. When agreed upon by prior arrangement to transport a patient to one destination and return to the point of pick-up or to one destination and then to a subsequent destination, assess only the ALS or BLS base rate, mileage rate, and standby waiting rate for the transport.
- B.** When a certificate holder transfers a patient to an air ambulance, the certificate holder shall assess the patient the rates and charges for EMS and transport provided to the patient before the transfer.
- C.** A certificate holder shall assess a standby waiting rate in quarter-hour increments, except for:
1. The first 15 minutes after arrival to load the patient at the point of pick-up;
 2. The time, exceeding the first 15 minutes, required by ambulance attendants to provide necessary medical treatment and stabilization of the patient at the point of pick-up; and
 3. The first 15 minutes to unload the patient at the point of destination.
- D.** When a certificate holder responds to a request outside the certificate holder's service area, the certificate holder shall assess its own rates and charges for EMS or transport provided to the patient.
- E.** When the Department or the certificate holder determines that a refund of a rate or a charge is required, the certificate holder shall refund the rate or charge within 90 days from the date of the determination.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1109. Charges (A.R.S. §§ 36-2232, 36-2239(D))

- A.** A certificate holder that charges patients for disposable supplies, medical supplies, medications, and oxygen-related costs shall submit to the Department a list of the items and the proposed charges. The list shall include a non-retroactive effective date.
- B.** A certificate holder shall submit to the Department a new list each time the certificate holder proposes a change in the items or the amount charged. The list shall contain the information required in subsection (A), including a non-retroactive effective date.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1110. Invoices (A.R.S. §§ 36-2234, 36-2239)

- A.** Each invoice for rates and charges shall contain the following:
1. The patient's name;
 2. The certificate holder's name, address, and telephone number;
 3. The date of service;
 4. An itemized list of the rates and charges assessed;
 5. The total monetary amount owed the certificate holder; and
 6. The payment due date.
- B.** Any subsequent invoice to the same patient for the same EMS or transport shall contain all the information in subsection (A) except the information in subsection (A)(4).
- C.** Charges may be combined into one line item if the supplies are used for a specific purpose and the name of the combined item is included in the certificate holder's disposable medical supply listing provided to the Department under R9-25-1109.
- D.** A certificate holder may combine rates and charges into one line item if required by a third-party payor.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

36-136. Powers and duties of director; compensation of personnel; rules

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.
2. Perform all duties necessary to carry out the functions and responsibilities of the department.
3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.
4. Administer and enforce the laws relating to health and sanitation and the rules of the department.
5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.
6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.
7. Prepare sanitary and public health rules.
8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.
2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to ensure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.

E. The compensation of all personnel shall be as determined pursuant to section 38-611.

F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer than eighteen months.

H. The director, by rule, shall:

1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, that are reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.
2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.
3. Define and prescribe reasonably necessary procedures that are not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.
4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to ensure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:
 - (a) Served at a noncommercial social event such as a potluck.
 - (b) Prepared at a cooking school that is conducted in an owner-occupied home.
 - (c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.
 - (d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.
 - (e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption.
 - (f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous.
 - (g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for individuals with developmental disabilities, the label must also disclose that fact. The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.

(h) A whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption.

5. Prescribe reasonably necessary measures to ensure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to ensure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to ensure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules. Primitive camp and picnic grounds offered by this state or a political subdivision of this state are exempt from rules adopted pursuant to this paragraph but are subject to approval by a county health department under sanitary regulations adopted pursuant to section 36-183.02. For the purposes of this paragraph, "primitive camp and picnic grounds" means camp and picnic grounds that are remote in nature and without accessibility to public infrastructure such as water, electricity and sewer.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.

11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.

12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.

13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.

I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.

J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.

K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (f) of this section, food and drink are exempt from the rules prescribed in subsection H of this section if offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous, without a limitation on its display area.

N. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (h) of this section, a whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption is exempt from the rules prescribed in subsection H of this section.

36-2201. Definitions

In this chapter, unless the context otherwise requires:

1. "Administrative medical direction" means supervision of emergency medical care technicians by a base hospital medical director, administrative medical director or basic life support medical director. For the purposes of this paragraph, "administrative medical director" means a physician who is licensed pursuant to title 32, chapter 13 or 17 and who provides direction within the emergency medical services and trauma system.

2. "Advanced emergency medical technician" means a person who has been trained in an advanced emergency medical technician program certified by the director or in an equivalent training program and who is certified by the director to render services pursuant to section 36-2205.

3. "Advanced life support" means the level of assessment and care identified in the scope of practice approved by the director for the advanced emergency medical technician, emergency medical technician I-99 and paramedic.

4. "Advanced life support base hospital" means a health care institution that offers general medical and surgical services, that is certified by the director as an advanced life support base hospital and that is affiliated by written agreement with a licensed ambulance service, municipal rescue service, fire department, fire district or health services district for medical direction, evaluation and control of emergency medical care technicians.
5. "Ambulance" means any publicly or privately owned surface, water or air vehicle, including a helicopter, that contains a stretcher and necessary medical equipment and supplies pursuant to section 36-2202 and that is especially designed and constructed or modified and equipped to be used, maintained or operated primarily for the transportation of individuals who are sick, injured or wounded or who require medical monitoring or aid. Ambulance does not include a surface vehicle that is owned and operated by a private sole proprietor, partnership, private corporation or municipal corporation for the emergency transportation and in-transit care of its employees or a vehicle that is operated to accommodate an incapacitated person or person with a disability who does not require medical monitoring, care or treatment during transport and that is not advertised as having medical equipment and supplies or ambulance attendants.
6. "Ambulance attendant" means any of the following:
 - (a) An emergency medical technician, an advanced emergency medical technician, an emergency medical technician I-99 or a paramedic whose primary responsibility is the care of patients in an ambulance and who meets the standards and criteria adopted pursuant to section 36-2204.
 - (b) An emergency medical responder who is employed by an ambulance service operating under section 36-2202 and whose primary responsibility is the driving of an ambulance.
 - (c) A physician who is licensed pursuant to title 32, chapter 13 or 17.
 - (d) A professional nurse who is licensed pursuant to title 32, chapter 15 and who meets the state board of nursing criteria to care for patients in the prehospital care system.
 - (e) A professional nurse who is licensed pursuant to title 32, chapter 15 and whose primary responsibility is the care of patients in an ambulance during an interfacility transport.
7. "Ambulance service" means a person who owns and operates one or more ambulances.
8. "Basic life support" means the level of assessment and care identified in the scope of practice approved by the director for the emergency medical responder and emergency medical technician.
9. "Bureau" means the bureau of emergency medical services and trauma system in the department.
10. "Centralized medical direction communications center" means a facility that is housed within a hospital, medical center or trauma center or a freestanding communication center that meets the following criteria:
 - (a) Has the ability to communicate with ambulance services and emergency medical services providers rendering patient care outside of the hospital setting via radio and telephone.
 - (b) Is staffed twenty-four hours a day seven days a week by at least a physician licensed pursuant to title 32, chapter 13 or 17.
11. "Certificate of necessity" means a certificate that is issued to an ambulance service by the department and that describes the following:
 - (a) Service area.
 - (b) Level of service.
 - (c) Type of service.
 - (d) Hours of operation.
 - (e) Effective date.
 - (f) Expiration date.
 - (g) Legal name and address of the ambulance service.
 - (h) Any limiting or special provisions the director prescribes.
12. "Council" means the emergency medical services council.
13. "Department" means the department of health services.
14. "Director" means the director of the department of health services.

15. "Emergency medical care technician" means an individual who has been certified by the department as an emergency medical technician, an advanced emergency medical technician, an emergency medical technician I-99 or a paramedic.
16. "Emergency medical responder" as an ambulance attendant means a person who has been trained in an emergency medical responder program certified by the director or in an equivalent training program and who is certified by the director to render services pursuant to section 36-2205.
17. "Emergency medical services" means those services required following an accident or an emergency medical situation:
 - (a) For on-site emergency medical care.
 - (b) For the transportation of the sick or injured by a licensed ground or air ambulance.
 - (c) In the use of emergency communications media.
 - (d) In the use of emergency receiving facilities.
 - (e) In administering initial care and preliminary treatment procedures by emergency medical care technicians.
18. "Emergency medical services provider" means any governmental entity, quasi-governmental entity or corporation whether public or private that renders emergency medical services in this state.
19. "Emergency medical technician" means a person who has been trained in an emergency medical technician program certified by the director or in an equivalent training program and who is certified by the director as qualified to render services pursuant to section 36-2205.
20. "Emergency receiving facility" means a licensed health care institution that offers emergency medical services, is staffed twenty-four hours a day and has a physician on call.
21. "Fit and proper" means that the director determines that an applicant for a certificate of necessity or a certificate holder has the expertise, integrity, fiscal competence and resources to provide ambulance service in the service area.
22. "Medical record" means any patient record, including clinical records, prehospital care records, medical reports, laboratory reports and statements, any file, film, record or report or oral statements relating to diagnostic findings, treatment or outcome of patients, whether written, electronic or recorded, and any information from which a patient or the patient's family might be identified.
23. "National certification organization" means a national organization that tests and certifies the ability of an emergency medical care technician and whose tests are based on national education standards.
24. "National education standards" means the emergency medical services education standards of the United States department of transportation or other similar emergency medical services education standards developed by that department or its successor agency.
25. "Paramedic" means a person who has been trained in a paramedic program certified by the director or in an equivalent training program and who is certified by the director to render services pursuant to section 36-2205.
26. "Physician" means any person licensed pursuant to title 32, chapter 13 or 17.
27. "Stretcher van" means a vehicle that contains a stretcher and that is operated to accommodate an incapacitated person or person with a disability who does not require medical monitoring, aid, care or treatment during transport.
28. "Suboperation station" means a physical facility or location at which an ambulance service conducts operations for the dispatch of ambulances and personnel and that may be staffed twenty-four hours a day or less as determined by system use.
29. "Trauma center" means any acute care hospital that provides in-house twenty-four hour daily dedicated trauma surgical services that is designated pursuant to section 36-2225.
30. "Trauma registry" means data collected by the department on trauma patients and on the incidence, causes, severity, outcomes and operation of a trauma system and its components.
31. "Trauma system" means an integrated and organized arrangement of health care resources having the specific capability to perform triage, transport and provide care.
32. "Validated testing procedure" means a testing procedure that is inclusive of practical skills, or an attestation of practical skills proficiency on a form developed by the department by the educational

training program, identified pursuant to section 36-2204, paragraph 2, that is certified as valid by an organization capable of determining testing procedure and testing content validity and that is recommended by the medical direction commission and the emergency medical services council before the director's approval.

33. "Wheelchair van" means a vehicle that contains or that is designed and constructed or modified to contain a wheelchair and that is operated to accommodate an incapacitated person or person with a disability who does not require medical monitoring, aid, care or treatment during transport.

36-2202. Duties of the director; qualifications of medical director

A. The director shall:

1. Appoint a medical director of the emergency medical services and trauma system.
2. Adopt standards and criteria for the denial or granting of certification and recertification of emergency medical care technicians. These standards shall allow the department to certify qualified emergency medical care technicians who have completed statewide standardized training required under section 36-2204, paragraph 1 and a standardized certification test required under section 36-2204, paragraph 2 or who hold valid certification with a national certification organization. Before the director may consider approving a statewide standardized training or a standardized certification test, or both, each of these must first be recommended by the medical direction commission and the emergency medical services council to ensure that the standardized training content is consistent with national education standards and that the standardized certification tests examines comparable material to that examined in the tests of a national certification organization.
3. Adopt standards and criteria that pertain to the quality of emergency care pursuant to section 36-2204.
4. Adopt rules necessary to carry out this chapter. Each rule shall identify all sections and subsections of this chapter under which the rule was formulated.
5. Adopt reasonable medical equipment, supply, staffing and safety standards, criteria and procedures for issuance of a certificate of registration to operate an ambulance.
6. Maintain a state system for recertifying emergency medical care technicians, except as otherwise provided by section 36-2202.01, that is independent from any national certification organization recertification process. This system shall allow emergency medical care technicians to choose to be recertified under the state or the national certification organization recertification system subject to subsection H of this section.

B. Emergency medical technicians who choose the state recertification process shall recertify in one of the following ways:

1. Successfully completing an emergency medical technician refresher course approved by the department.
2. Successfully completing an emergency medical technician challenge course approved by the department.
3. For emergency medical care technicians who are currently certified at the emergency medical technician level by the department, attesting on a form provided by the department that the applicant holds a valid and current cardiopulmonary resuscitation certification, has and will maintain documented proof of a minimum of twenty-four hours of continuing medical education within the last two years consistent with department rules and has functioned in the capacity of an emergency medical technician for at least two hundred forty hours during the last two years.

C. After consultation with the emergency medical services council the director may authorize pilot programs designed to improve the safety and efficiency of ambulance inspections for governmental or quasi-governmental entities that provide emergency medical services in this state.

D. The rules, standards and criteria adopted by the director pursuant to subsection A, paragraphs 2, 3, 4 and 5 of this section shall be adopted in accordance with title 41, chapter 6, except that the director may adopt on an emergency basis pursuant to section 41-1026 rules relating to the regulation of ambulance services in this state necessary to protect the public peace, health and safety in advance of adopting rules, standards and criteria as otherwise provided by this subsection.

E. The director may waive the requirement for compliance with a protocol adopted pursuant to section 36-2205 if the director determines that the techniques, drug formularies or training makes the protocol inconsistent with contemporary medical practices.

F. The director may suspend a protocol adopted pursuant to section 36-2205 if the director does all of the following:

1. Determines that the rule is not in the public's best interest.
2. Initiates procedures pursuant to title 41, chapter 6 to repeal the rule.
3. Notifies all interested parties in writing of the director's action and the reasons for that action. Parties interested in receiving notification shall submit a written request to the director.

G. To be eligible for appointment as the medical director of the emergency medical services and trauma system, the person shall be qualified in emergency medicine and shall be licensed as a physician in one of the states of the United States.

H. Applicants for certification shall apply to the director for certification. Emergency medical care technicians shall apply for recertification to the director every two years. The director may extend the expiration date of an emergency medical care technician's certificate for thirty days. The department shall establish a fee for this extension by rule. Emergency medical care technicians shall pass an examination administered by the department as a condition for recertification only if required to do so by the advanced life support base hospital's medical director or the emergency medical care technician's medical director.

I. The medical director of the emergency medical services and trauma system is exempt from title 41, chapter 4, articles 5 and 6 and is entitled to receive compensation pursuant to section 38-611, subsection A.

J. The standards, criteria and procedures adopted by the director pursuant to subsection A, paragraph 5 of this section shall require that ambulance services serving a rural or wilderness certificate of necessity area with a population of less than ten thousand persons according to the most recent United States decennial census have at least one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (a) and one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (b) staffing an ambulance while transporting a patient and that ambulance services serving a population of ten thousand persons or more according to the most recent United States decennial census have at least one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (a) and one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (a), (c), (d) or (e) staffing an ambulance while transporting a patient.

K. If the department determines there is not a qualified administrative medical director, the department shall ensure the provision of administrative medical direction for an emergency medical technician if the emergency medical technician meets all of the following criteria:

1. Is employed by a nonprofit or governmental provider employing less than twelve full-time emergency medical technicians.
2. Stipulates to the inability to secure a physician who is willing to provide administrative medical direction.
3. Stipulates that the provider agency does not provide administrative medical direction for its employees.

36-2204. Medical control

The medical director of the statewide emergency medical services and trauma system, the emergency medical services council and the medical direction commission shall recommend to the director the following standards and criteria that pertain to the quality of emergency patient care:

1. Statewide standardized training, certification and recertification standards for all classifications of emergency medical care technicians.
2. A standardized and validated testing procedure for all classifications of emergency medical care technicians.
3. Medical standards for certification and recertification of training programs for all classifications of emergency medical care technicians.

4. Standardized continuing education criteria for all classifications of emergency medical care technicians.
5. Medical standards for certification and recertification of certified emergency receiving facilities and advanced life support base hospitals and approval of physicians providing medical control or medical direction for any classification of emergency medical care technicians who are required to be under medical control or medical direction.
6. Standards and mechanisms for monitoring and ongoing evaluation of performance levels of all classifications of emergency medical care technicians, emergency receiving facilities and advanced life support base hospitals and approval of physicians providing medical control or medical direction for any classification of emergency medical care technicians who are required to be under medical control or medical direction.
7. Objective criteria and mechanisms for decertification of all classifications of emergency medical care technicians, emergency receiving facilities and advanced life support base hospitals and for disapproval of physicians providing medical control or medical direction for any classification of emergency care technicians who are required to be under medical control or medical direction.
8. Medical standards for nonphysician prehospital treatment and prehospital triage of patients requiring emergency medical services.
9. Standards for emergency medical dispatcher training, including prearrival instructions. For the purposes of this paragraph, "emergency medical dispatch" means the receipt of calls requesting emergency medical services and the response of appropriate resources to the appropriate location.
10. Standards for a quality assurance process for components of the statewide emergency medical services and trauma system, including standards for maintaining the confidentiality of the information considered in the course of quality assurance and the records of the quality assurance activities pursuant to section 36-2403.
11. Standards for ambulance service and medical transportation that give consideration to the differences between urban, rural and wilderness areas.
12. Standards to allow an ambulance to transport a patient to a health care institution that is licensed as a special hospital and that is physically connected to an emergency receiving facility.

36-2212. Certificate of registration to operate an ambulance; termination on change in ownership; fees; exemption

- A. A person shall not operate an ambulance in this state unless the ambulance has a certificate of registration and complies with this article and the rules, standards and criteria adopted pursuant to this article.
- B. A person may obtain a certificate of registration to operate an ambulance by submitting an application on a form prescribed by the director and by demonstrating to the director's satisfaction that the applicant is in compliance with this article and all rules, standards and criteria adopted by the director for the operation of an ambulance.
- C. A certificate of registration issued under this section terminates upon any change of ownership or control of the ambulance. Following any change of ownership, the new owner of an ambulance shall apply for and receive a new certificate of registration from the director before the ambulance may again be operated in this state. This subsection does not apply if an ambulance service borrows, leases, rents or otherwise obtains a registered ambulance from another ambulance service to temporarily replace an inoperable ambulance.
- D. The department shall issue a certificate of registration to a person who complies with the requirements of this article and who pays an initial registration fee. A certificate of registration is valid for one year. However, an ambulance service may request that the department issue an initial certificate of registration that expires before the end of one year in order for the department to conduct an annual inspection of all of the ambulance service's ambulances at one time. A person may renew a certificate of registration by complying with the requirements of this article and by paying a renewal fee prescribed by the director. The fee for initial registration and registration renewal shall not exceed fifty dollars for each ambulance.

The department shall base these fees on an amount that approximates the per vehicle costs incurred by the department to administer this chapter. The director shall deposit, pursuant to sections 35-146 and 35-147, fees collected under this subsection in the state general fund. The department shall not charge a registration fee for an ambulance to an ambulance service that operates an ambulance or ambulances only as a volunteer not-for-profit service.

36-2224. Interfacility transportation of patients; requirements

An ambulance service that transports a patient from a hospital within its certificated area to a hospital outside the certificated area is only required to transport that patient under medical direction to the nearest most appropriate facility as defined by federal medicare guidelines for ambulance services. This section shall not apply to any patient transport initiated or undertaken pursuant to the provisions of the federal emergency medical treatment and active labor act.

36-2232. Director; powers and duties; regulation of ambulance services; inspections; response time compliance

A. The director shall adopt rules to regulate the operation of ambulances and ambulance services in this state. Each rule shall identify all sections and subsections of this chapter under which the rule was formulated. The rules shall provide for the department to do the following:

1. Determine, fix, alter and regulate just, reasonable and sufficient rates and charges for the provision of ambulances, including rates and charges for advanced life support service, basic life support service, patient loaded mileage, standby waiting, subscription service contracts and other contracts for services related to the provision of ambulances. The director may establish a rate and charge structure as defined by federal medicare guidelines for ambulance services. The director shall inform all ambulance services of the procedures and methodology used to determine ambulance rates or charges.
2. Regulate operating and response times of ambulances to meet the needs of the public and to ensure adequate service. The rules adopted by the director for certificated ambulance service response times shall include uniform standards for urban, suburban, rural and wilderness geographic areas within the certificate of necessity based on, at a minimum, population density, geographic and medical considerations.
3. Determine, fix, alter and regulate bases of operation. The director may issue a certificate of necessity to more than one ambulance service within any base of operation. For the purposes of this paragraph, "base of operation" means a service area granted under a certificate of necessity.
4. Issue, amend, transfer, suspend or revoke certificates of necessity under terms consistent with this article.
5. Prescribe a uniform system of accounts to be used by ambulance services that conforms to standard accounting forms and principles for the ambulance industry and generally accepted accounting principles.
6. Require the filing of an annual financial report and other data. These rules shall require an ambulance service to file the report with the department not later than one hundred eighty days after the completion of its annual accounting period.
7. Regulate ambulance services in all matters affecting services to the public to the end that this article may be fully carried out.
8. Prescribe bonding requirements, if any, for ambulance services granted authority to provide any type of subscription service.
9. Offer technical assistance to ambulance services to maximize a healthy and viable business climate for the provision of ambulances.
10. Offer technical assistance to ambulance services in order to obtain or to amend a certificate of necessity.
11. Inspect, at a maximum of twelve month intervals, each ambulance registered pursuant to section 36-2212 to ensure that the vehicle is operational and safe and that all required medical equipment is operational. At the request of the provider, the inspection may be performed by a facility approved by the

director. If a provider requests that the inspection be performed by a facility approved by the director, the provider shall pay the cost of the inspection.

B. The director may require any ambulance service offering subscription service contracts to obtain a bond in an amount determined by the director that is based on the number of subscription service contract holders and to file the bond with the director for the protection of all subscription service contract holders in this state who are covered under that subscription contract.

C. An ambulance service shall:

1. Maintain, establish, add, move or delete suboperation stations within its base of operation to ensure that the ambulance service meets the established response times or those approved by the director in a political subdivision contract.

2. Determine the operating hours of its suboperation stations to provide for coverage of its base of operation.

3. Provide the department with a list of suboperation station locations.

4. Notify the department not later than thirty days after the ambulance service makes a change in the number or location of its suboperation stations.

D. At any time the director or the director's agents may:

1. Inquire into the operation of an ambulance service, including a person operating an ambulance that has not been issued a certificate of registration or a person who does not have or is operating outside of a certificate of necessity.

2. Conduct on-site inspections of facilities, communications equipment, vehicles, procedures, materials and equipment.

3. Review the qualifications of ambulance attendants.

E. If all ambulance services that have been granted authority to operate within the same service area or that have overlapping certificates of necessity apply for uniform rates and charges, the director may establish uniform rates and charges for the service area.

F. In consultation with the medical director of the emergency medical services and trauma system, the emergency medical services council and the medical direction commission, the director of the department of health services shall establish protocols for ambulance services to refer and advise a patient or transport a patient by the most appropriate means to the most appropriate provider of medical services based on the patient's condition. The protocols shall include triage and treatment protocols that allow all classifications of emergency medical care technicians responding to a person who has accessed 911, or a similar public dispatch number, for a condition that does not pose an immediate threat to life or limb to refer and advise a patient or transport a patient to the most appropriate health care institution as defined in section 36-401 based on the patient's condition, taking into consideration factors including patient choice, the patient's health care provider, specialized health care facilities and local protocols.

G. The director, when reviewing an ambulance service's response time compliance with its certificate of necessity, shall consider in addition to other factors the effect of hospital diversion, delayed emergency department admission and the number of ambulances engaged in response or transport in the affected area.

36-2233. Certificate of necessity to operate an ambulance service; termination; exceptions; service areas

A. Any person wishing to operate an ambulance service in this state shall apply to the department on a form prescribed by the director for a certificate of necessity.

B. The director shall issue a certificate of necessity if all of the following apply:

1. The ambulance service has a certificate of registration issued by the department for at least one ambulance pursuant to section 36-2212.

2. The director finds that public necessity requires the service or any part of the service proposed by the applicant.

3. The director finds that the applicant is fit and proper to provide the service.

4. The applicant has paid the appropriate fees pursuant to section 36-2240.

5. The applicant has filed a surety bond pursuant to section 36-2237.

C. A certificate of necessity issued pursuant to subsection B of this section shall be for all or part of the service proposed by the applicant as determined necessary by the director for public convenience and necessity.

D. Nothing in this section shall be construed to require a certificate of necessity for:

1. Vehicles and persons exempt from a certificate of registration pursuant to section 36-2217.
2. Ambulance services operating under temporary authority pursuant to section 36-2242.

E. The director may grant a service area by one or any combination of the following descriptions:

1. Metes and bounds.
2. A city, town or political subdivision not limited to a specific date.
3. A city, town or political subdivision as of a specific date that does not include annexation.

36-2234. Hearings; waiver of hearing; emergency action; judicial review

A. The director shall require a public hearing on any proposed action related to rates, fares or charges, operating or response times, bases of operation or certificates of necessity unless subsection C, E, or M of this section applies.

B. A public hearing held pursuant to subsection A of this section shall meet the following requirements:

1. The hearing shall be held pursuant to title 41, chapter 6, article 10.
2. The director shall mail notice of the hearing to every ambulance service in the affected region no later than fifteen days before the hearing.
3. The director may mail notice to other persons who the director determines are interested in the hearing.
4. In a hearing or rehearing conducted pursuant to this article, an ambulance service may be represented by a corporate officer, an employee or a designee who has been specifically authorized by the ambulance service to represent it.

C. The director may waive the hearing required under subsection A of this section if notification, including a general description of the proposed action of the department and the time and manner for any interested person to request a hearing, is given and all of the following apply:

1. Notification of the proposed action has been sent to every ambulance service in the affected region no later than fifteen days before the action.
2. The director has notified other persons who the director determines are interested in the proposed action no later than fifteen days before the action.
3. The director has published notice of the proposed action in a newspaper of general circulation in the affected region at least once each week for two consecutive weeks before the action is taken.
4. The director has received no requests within the fifteen day notification period for a hearing to be held on the proposed action.

D. If the director receives a request pursuant to subsection C, paragraph 4 of this section, the director shall hold a hearing in compliance with subsection B of this section.

E. The director shall not hold a hearing if a person requests a hearing regarding a rate increase that does not exceed the amount computed as follows:

1. Determine the percentage growth in the transportation consumer price index of the United States department of labor, bureau of labor statistics, from the end of the second preceding calendar year to the calendar year immediately preceding the calendar year for which the rate increase is requested.
2. Determine the percentage growth in the medical care consumer price index of the United States department of labor, bureau of labor statistics, from the end of the second preceding calendar year to the calendar year immediately preceding the calendar year for which the rate increase is requested.
3. Add the amount determined in paragraph 1 of this subsection to the amount determined in paragraph 2 of this subsection and divide the sum by two.

F. A rate increase authorized pursuant to subsection E of this section is deemed to be fixed by the department at the requested level. Notwithstanding subsection C of this section, the department shall hold a hearing pursuant to section 36-2232, subsection E for any proposed uniform rate or charge that exceeds the annual rate increase prescribed in subsection E of this section. The department shall require the applicants to submit the following information signed by the designated financial officer and the chief

executive of the ambulance service who has fiduciary responsibility for providing accurate financial information:

1. A financial statement for the previous twenty-four months relating to the certificated areas.
2. Any additional information the department requires to analyze the request.

G. If an ambulance service with an established general public rate applies for a contract rate or range of rates that is up to thirty per cent less than its established rate, the director shall grant the rate without a public hearing or waiver, and without any right of intervention, unless within ninety days of the filing of a completed application the director determines that the contract rate or range of rates applied for does not accurately reflect the cost and economics of providing the contract services, would adversely affect the service available to the general public in the area of service as designated by its certificate of necessity or would cause any fixed rate, fare or charge to the general public to be adversely affected.

H. If the department disallows a proposed contract rate pursuant to subsection G of this section, the ambulance service has a right to a hearing for review of the proposed contract rate or range of rates.

I. The director may adopt rules for the establishment of a contract rate or range of rates that may be implemented and that exceeds the thirty per cent rate variance identified pursuant to subsection G of this section.

J. Subsections G, H and I of this section are limited to contract rates or a range of rates applied for prescheduled, interfacility or convalescent transports.

K. A service contract between an ambulance service and a political subdivision of this state, including local fire districts, shall be filed with and approved by the department in accordance with the following requirements:

1. On receipt of the proposed contract, the department has fifteen days to review the contract and notify the ambulance service of any additional information the department requires, recommended corrections or any provision that does or may violate this article.
2. The ambulance service has fifteen days to provide the department with the information requested or to submit a revised or amended contract if required under paragraph 1 of this subsection.
3. The contract becomes effective fifteen days after the ambulance service complies with the department's request unless the department determines that any rate or charge or other provisions specified in the contract will cause any fixed rate or charge to the general public rate to be adversely affected or the contract would be in violation of the ambulance service's certificate of necessity.
4. If the department disallows a proposed contract pursuant to this subsection, the ambulance service has a right to a hearing for review of the proposed contract.
5. The rates and charges contained in the contract are the rates and charges fixed by the director in a decision or order for the ambulance service and conform to the ambulance service's current or subsequent general public rates and charges.
6. The area of response is within the ambulance service's certificated area.

L. In case of emergency, the director may take action providing for immediate suspension of a certificate of registration or a certificate of necessity, or both, under this section without notice or a hearing if the director determines that a potential threat to the public health and safety exists. If such action is taken by the director, the director shall conduct a hearing within ten days after the date of the director's action unless the person against whom the action is directed waives the right to have a hearing held within ten days. If the ten day hearing requirement is waived, the director shall set a date mutually agreeable to the interested parties. The purpose of the hearing is to review the decision of the director to take such action. The director shall make findings of fact and may continue, suspend or modify the director's action.

M. The director shall waive the hearing required under subsection A of this section if geographical changes in suboperation stations do not alter the service area or adversely affect approved response times.

N. Except as provided in section 41-1092.08, subsection H, a final decision of the director is subject to judicial review pursuant to title 12, chapter 7, article 6.

36-2235. Terms of certificates of necessity; initial term; renewal

- A. The initial certificate of necessity issued pursuant to section 36-2233 to each ambulance service shall be for a term of one year.
- B. On the expiration of a certificate of necessity, if the holder of the certificate meets all requirements, applies for a renewal and pays the fees prescribed in section 36-2240, the director shall renew the certificate for a term of three years without public hearing or waiver unless cause is shown to set a hearing to consider denial or renewal for a shorter term.
- C. If the director does not conclude a hearing to show cause within ninety days of the expiration date of the certificate, the certificate shall be renewed for a period of not less than one year. The term of the certificate shall be extended to three years if the director determines that cause is not established for denial or renewal for a shorter term. For the purposes of this subsection, "hearing to show cause" means a hearing ordered by the director pursuant to section 36-2245 to determine if any grounds exist to prevent an ambulance service from carrying out the provisions of subsection B of this section during the current term of the certificate.

36-2236. Nature of certificates of necessity; transfer; suspension; service area

- A. A certificate of necessity issued pursuant to this article is not a franchise, may be revoked by the director and does not confer a property right on its holder.
- B. A certificate of necessity shall not be assigned or otherwise transferred without the written approval of the director. When any certificate is assigned or transferred, the director shall issue to the assignee or transferee a new certificate valid only for the unexpired term of the transferred or assigned certificate.
- C. In case of emergency, the director may suspend a certificate of necessity as provided in section 36-2234.
- D. If a certificate of necessity issued pursuant to this article includes any city, town or other political subdivision of this state, the service area shall be all the geographical area lying within the city, town, or political subdivision, unless the certificate issued by the director specifically excludes a portion of the city, town, or political subdivision. This subsection does not affect the validity of any previously granted certificate for an unincorporated area lying within the boundaries of a city.

36-2237. Required insurance, financial responsibility or bond; revocation for failure to comply

- A. The director shall not issue a certificate of necessity to an ambulance service unless the service has filed with the department a certificate of insurance or other evidence of financial responsibility in an amount the director deems necessary to adequately protect the interests of the public. The liability insurance shall bind the insurer to pay compensation for injuries to persons and for loss or damage to property resulting from the negligent operation of the ambulance service.
- B. If an application for a certificate of necessity includes any type of subscription service contract and, in the director's discretion, a surety bond is necessary pursuant to section 36-2232, the director shall not issue a certificate of necessity until the applicant has filed a surety bond with the director in the form and amount determined by him on which bond the applicant is the principal obligor and this state is the obligee. The director shall approve the bond and the bond must be with a surety company authorized to transact business in this state as surety on the bond. The bond must be conditioned on the payment by the applicant to any subscribers that may be parties to any type of subscription service contract.
- C. The director shall fix the total amount of the bond required and the director may increase or decrease the bond amount subject to criteria adopted by rule and regulation.
- D. The director shall revoke the certificate of necessity of any ambulance service which fails to comply with this section.

36-2239. Rates or charges of ambulance service

- A. An ambulance service that applies for an adjustment in its rates or charges shall automatically be granted a rate increase equal to the amount determined under section 36-2234, subsection E, if the ambulance service is so entitled. An automatic rate adjustment that is granted pursuant to this subsection

and that is filed on or before April 1 is effective June 1 of that year. The department shall notify the applicant and each health care services organization as defined in section 20-1051 of the rate adjustment on or before May 1 of that year.

B. Notwithstanding subsection E of this section, if the department does not hold a hearing within ninety days after an ambulance service submits an application to the department for an adjustment of its rates or charges, the ambulance service may adjust its rates or charges to an amount not to exceed the amount sought by the ambulance service in its application to the department. An ambulance service shall not apply for an adjustment of its rates or charges more than once every six months.

C. At the time it holds a hearing on the rates or charges of an ambulance service pursuant to section 36-2234, the department may adjust the rates or charges adjusted by the ambulance service pursuant to subsection B of this section, but the adjustment shall not be retroactive.

D. Except as provided in subsection H of this section, an ambulance service shall not charge, demand or collect any remuneration for any service greater or less than or different from the rate or charge determined and fixed by the department as the rate or charge for that service. An ambulance service may charge for disposable supplies, medical supplies and medication and oxygen related costs if the charges do not exceed the manufacturer's suggested retail price, are uniform throughout the ambulance service's certificated area and are filed with the director. An ambulance service shall not refund or limit in any manner or by any device any portion of the rates or charges for a service that the department has determined and fixed or ordered as the rate or charge for that service.

E. The department shall determine and render its decision regarding all rates or charges within ninety days after commencement of the applicant's hearing for an adjustment of rates or charges. If the department does not render its decision as required by this subsection, the ambulance service may adjust its rates and charges to an amount that does not exceed the amounts sought by the ambulance service in its application to the department. If the department renders a decision to adjust the rates or charges to an amount less than that requested in the application and the ambulance service has made an adjustment to its rates and charges that is higher than the adjustment approved by the department, within thirty days after the department's decision the ambulance service shall refund to the appropriate ratepayer the difference between the ambulance service's adjusted rates and charges and the rates and charges ordered by the department. The ambulance service shall provide evidence to the department that the refund has been made. If the ambulance service fails to comply with this subsection, the director may impose a civil penalty subject to the limitations provided in section 36-2245.

F. An ambulance service shall charge the advanced life support base rate as prescribed by the director under any of the following circumstances:

1. A person requests an ambulance by dialing telephone number 911, or a similarly designated telephone number for emergency calls, and the ambulance service meets the following:
 - (a) The ambulance is staffed with at least one ambulance attendant.
 - (b) The ambulance is equipped with all required advanced life support medical equipment and supplies for the advanced life support attendants in the ambulance.
 - (c) The patient receives advanced life support services or is transported by the advanced life support unit.
2. Advanced life support is requested by a medical authority or by the patient.
3. The ambulance attendants administer one or more specialized treatment activities or procedures as prescribed by the department by rule.

G. An ambulance service shall charge the basic life support base rate as prescribed by the director under any of the following circumstances:

1. A person requests an ambulance by dialing telephone number 911, or a similarly designated telephone number for emergency calls, and the ambulance service meets the following:
 - (a) The ambulance is staffed with two ambulance attendants certified by this state.
 - (b) The ambulance is equipped with all required basic life support medical equipment and supplies for the basic life support medical attendants in the ambulance.
 - (c) The patient receives basic life support services or is transported by the basic life support unit.

2. Basic life support transportation or service is requested by a medical authority or by the patient, unless any provision of subsection F of this section applies, in which case the advanced life support rate shall apply.

H. For each contract year, the Arizona health care cost containment system administration and its contractors and subcontractors shall provide remuneration for ambulance services for persons who are enrolled in or covered by the Arizona health care cost containment system in an amount equal to 68.59 percent of the amounts as prescribed by the department as of July 1 of each year for services specified in subsections F and G of this section and 68.59 percent of the mileage charges as determined by the department as of July 1 of each year pursuant to section 36-2232. The Arizona health care cost containment system administration shall make annual adjustments to the Arizona health care cost containment system fee schedule according to the department's approved ambulance service rate in effect as of July 1 of each year. The rate adjustments made pursuant to this subsection are effective beginning October 1 of each year.

I. In establishing rates and charges the director shall consider the following factors:

1. The transportation needs assessment of the medical response system in a political subdivision.
2. The medical care consumer price index of the United States department of labor, bureau of labor statistics.
3. Whether a review is made by a local emergency medical services coordinating system in regions where that system is designated as to the appropriateness of the proposed service level.
4. The rate of return on gross revenue.
5. Response times pursuant to section 36-2232, subsection A, paragraph 2.

J. Notwithstanding section 36-2234, an ambulance service may charge an amount for medical assessment, equipment or treatment that exceeds the requirements of section 36-2205 if requested or required by a medical provider or patient.

K. Notwithstanding subsections D, F and G of this section, an ambulance service may provide gratuitous services if an ambulance is dispatched and the patient subsequently declines to be treated or transported.

36-2240. Fees

Fees not to exceed the following amounts shall be paid by the owner of an ambulance service to the department for deposit in the state general fund to be available for legislative appropriation in order to carry out the provisions of this chapter:

1. One hundred dollars upon filing an application for a certificate of necessity.
2. Fifty dollars upon filing an application to amend, transfer or renew a certificate of necessity.
3. For the issuance of an initial certificate of necessity, two hundred dollars for each ambulance proposed to be operated by the ambulance service to which the certificate is granted.
4. An annual regulatory fee of two hundred dollars for each ambulance issued a certificate of registration pursuant to section 36-2212, to be collected at the same time as the certificate of registration fee imposed by section 36-2212.

36-2241. Required records; inspection by the department

A. Pursuant to rules adopted by the director, an owner of an ambulance service shall maintain and keep within this state reasonable records, books and other data the director requires to enforce the provisions of this article. These records, books and other data shall not be destroyed for a period of three years after they are recorded. The records, books and other data shall be open to inspection by the department during reasonable office hours if the department is conducting an investigation into the operation of an ambulance service pursuant to section 36-2245.

B. If the director is holding a public rate increase hearing pursuant to section 36-2234, the department may inspect the records, books and other data to verify the truth and accuracy of these documents. The department shall conduct the inspection of these documents for a rate increase hearing only during reasonable office hours and only after giving the service at least one working day's notice.

C. If an audit is required, the department shall accept a certified audit that is performed by an independent auditor at the provider's expense in place of a department audit if the audit:

1. Is conducted in accordance with generally accepted auditing standards.
2. Includes findings regarding the ambulance service's compliance with the schedule of rates and charges approved by the director.
3. Is completed and forwarded to the department in a timely manner.

36-2244. Legal action for enforcement

The department may institute and maintain in the name of this state an action to enforce this article or any rule adopted pursuant to this article by mandatory injunction or other appropriate remedy.

36-2245. Investigations; dispute resolution; informal interviews; hearings; stipulations; judicial review; civil penalty

A. The department may conduct an investigation into the operation of ambulances and ambulance services.

B. Proceedings under this section may be initiated by the department.

C. If the department receives a written and signed statement of dissatisfaction or dispute of charges or any matter relating to the regulation of ambulance services, the customer is deemed to have filed an informal complaint against the ambulance service. Within fifteen days of receipt of the complaint, a designated representative of the department shall inform the ambulance service that an informal complaint has been filed, state the nature of the allegations made, specify the purported rule violation and identify specific records relating to the purported rule violation that the ambulance service shall provide to the department. The ambulance service shall comply with the request for records in a timely manner.

D. Within forty-five days of receipt of the records, the department shall determine if the complaint is nonsubstantive or substantive.

E. If the department determines that a complaint filed pursuant to this section is nonsubstantive, it shall render a written decision to all parties within five days of that determination. The complainant may make a formal complaint to the department if the complainant disagrees with the department's decision. If the nonsubstantive complaint involves rates and charges, a designated representative of the department shall attempt to resolve the dispute by correspondence or telephone with the ambulance service and the customer.

F. If the department determines that a complaint filed pursuant to this section is substantive, the complaint becomes a formal complaint. The department shall inform the ambulance service that the initial investigation was substantive in nature and may warrant action pursuant to this article. The department shall inform the ambulance service of the specific rule violation and shall allow the ambulance service thirty days to answer the complaint in writing.

G. The department may issue a written request for an informal interview with the ambulance service if the department believes that the evidence indicates that grounds for action exist. The request shall state the reasons for the interview and shall schedule an interview at least ten days from the date that the department sends the request for an interview.

H. If the department determines that evidence warrants action or if the ambulance service refuses to attend the informal interview, the director shall institute formal proceedings and hold a hearing pursuant to title 41, chapter 6, article 10.

I. If the department believes that a lesser disciplinary action is appropriate, the department may enter into a stipulated agreement with the ambulance service. This stipulation may include a civil penalty as provided under subsection J of this section.

J. In addition to other disciplinary action provided under this section, the director may impose a civil penalty of not more than three hundred fifty dollars for each violation of this chapter that constitutes grounds to suspend or revoke a certificate of necessity. This penalty shall not exceed fifteen thousand dollars. Each day that a violation occurs constitutes a separate offense. The director shall deposit,

pursuant to sections 35-146 and 35-147, all monies collected under this subsection in the emergency medical services operating fund established under section 36-2218.

K. The director may suspend a certificate of necessity without holding a hearing if the director determines that the certificate holder has failed to pay a civil penalty imposed under this section. The director shall reinstate the certificate of necessity when the certificate holder pays the penalty in full.

L. Except as provided in section 41-1092.08, subsection H, a final decision of the department pursuant to this section is subject to judicial review pursuant to title 12, chapter 7, article 6.

M. Information, documents and records received by the department or prepared by the department in connection with an investigation that is conducted pursuant to this article and that relates to emergency medical care technicians are confidential and are not subject to public inspection or civil discovery. When the investigation has been completed and the investigation file has been closed, the results of the investigation and the decision of the department shall be available to the public.

36-2246. Fire districts; rural ambulance services; request for information; format

A. The department shall implement a format to govern its requests for information from each fire district that holds a certificate of necessity to operate an ambulance service under this chapter that substantially conforms to the annual report prescribed by section 48-251.

B. The department's request for financial information from each fire district that holds a certificate of necessity to operate an ambulance service under this chapter shall substantially conform to the accounting method prescribed by section 48-251.

C. The department's request for information from each rural ambulance service that holds a certificate of necessity under this chapter shall include the minimum information the department requires under section 36-2232, subsection A, paragraphs 5 and 6.

41-1092.03. Notice of appealable agency action or contested case; hearing; informal settlement conference; applicability

A. Except as provided in subsection D of this section, an agency shall serve notice of an appealable agency action or contested case pursuant to section 41-1092.04. The notice shall:

1. Identify the statute or rule that is alleged to have been violated or on which the action is based.
2. Identify with reasonable particularity the nature of any alleged violation, including, if applicable, the conduct or activity constituting the violation.
3. Include a description of the party's right to request a hearing on the appealable agency action or contested case.
4. Include a description of the party's right to request an informal settlement conference pursuant to section 41-1092.06.

B. A party may obtain a hearing on an appealable agency action or contested case by filing a notice of appeal or request for a hearing with the agency within thirty days after receiving the notice prescribed in subsection A of this section. The notice of appeal or request for a hearing may be filed by a party whose legal rights, duties or privileges were determined by the appealable agency action or contested case. A notice of appeal or request for a hearing also may be filed by a party who will be adversely affected by the appealable agency action or contested case and who exercised any right provided by law to comment on the action being appealed or contested, provided that the grounds for the notice of appeal or request for a hearing are limited to issues raised in that party's comments. The notice of appeal or request for a hearing shall identify the party, the party's address, the agency and the action being appealed or contested and shall contain a concise statement of the reasons for the appeal or request for a hearing. The agency shall notify the office of the appeal or request for a hearing and the office shall schedule an appeal or contested case hearing pursuant to section 41-1092.05, except as provided in section 41-1092.01, subsection F.

C. If good cause is shown an agency head may accept an appeal or request for a hearing that is not filed in a timely manner.

D. This section does not apply to a contested case if the agency:

1. Initiates the contested case hearing pursuant to law other than this chapter and not in response to a request by another party.
2. Is not required by law, other than this chapter, to provide an opportunity for an administrative hearing before taking action that determines the legal rights, duties or privileges of an applicant for a license.

41-1092.11. Licenses; renewal; revocation; suspension; annulment; withdrawal

A. If a licensee makes timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

B. Revocation, suspension, annulment or withdrawal of any license is not lawful unless, before the action, the agency provides the licensee with notice and an opportunity for a hearing in accordance with this article. If the agency finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the agency may order summary suspension of a license pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.