NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) CHILDREN'S HEALTH INSURANCE PROGRAM

PREAMBLE

1.

Sections Affected	Rulemaking Action
R9-31-101	Amend
R9-31-103	Amend
R9-31-106	Amend
R9-31-201	Amend
R9-31-213	Amend
R9-31-216	Amend
R9-31-302	Amend
R9-31-303	Amend
R9-31-306	Amend
R9-31-307	Amend
R9-31-309	Amend
R9-31-310	Amend
R9-31-401	Amend
R9-31-407	Amend
R9-31-502	Amend
R9-31-503	Amend
Article 6	Amend
R9-31-601	Amend
R9-31-703	Amend
R9-31-705	Amend
R9-31-711	Amend
R9-31-715	Amend
R9-31-717	Amend
R9-31-1001	Amend
Article 14	Repeal
Article 14	New Article
R9-31-1401	New Section
R9-31-1402	New Section
R9-31-1403	New Section
R9-31-1404	New Section
R9-31-1405	New Section
R9-31-1406	New Section
R9-31-1602	Amend
R9-31-1614	Amend
R9-31-1616	Amend
R9-31-1618	Amend
R9-31-1619	Amend
R9-31-1623	Amend
R9-31-1625	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-2986

Implementing statute: A.R.S. § 36-2986

3. The effective date of the rules:

September 10, 1999

4. A list of all previous notices appearing in the Register addressing the exempt rule:

None.

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

Name: Cheri Tomlinson, Federal and State Policy Administrator

Address: AHCCCS Administration, Office of Policy Analysis and Coordination
801 East Jefferson Street, Mail Drop 4200
Phoenix, AZ 85034

Telephone: (602) 417-4198

Fax: (602) 256-6756

6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:

Nine Articles in 9 A.A.C. 31 have been opened to make changes in order to bring the Articles into compliance with the Balanced Budget Act of 1997 (federal law) and Laws 1999, Ch. 313 (state law). In addition, minor changes were made to the language so it will conform with the Secretary of State's requirements.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material.

None.

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

Not applicable.

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

To be in compliance with Laws 1999, Ch. 313 the Administration raised the federal poverty (FPL) level for income eligibility to 200% FPL. In addition, for families with a FPL above 150% a premium payment will be imposed. The Administration anticipates the required monthly premium payment of $10-$20 will have a moderate to significant impact to members. In addition, this change will have a significant impact to the Administration because the Administration needs to create a new information system to facilitate billings and collections. AHCCCS health plans are anticipated to be minimally affected by the changes in rule language because health plans will be required to pay a percentage of valid, clean claims in a shorter time period (This change is required by the federal Balanced Budget Act of 1997). Since the time-frame requirements to notify a provider of the provider's rights regarding a reduced or denied payment for a claim were also changed, this will minimally affect health plans. AHCCCS providers will be nominally impacted by these changes because providers will receive payments for claims sooner. The Administration may be nominally impacted due to the changes in rule language because there may be a change in the method used to monitor the health plans compliance with claim payments. In addition, to be in compliance with Laws 1999, Ch. 313, the Administration changed the time-frames for submission of reinsurance claims. It is anticipated that AHCCCS health plans and providers will be moderately impacted by this change.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Not applicable.

11. A summary of the principal comments and the agency response to them:

The Administration received comments from 4 entities. Most of the comments received requested clarification of how premiums and copayments will be collected from a similar population that has not previously paid premiums and copayments. Some comments received dealt with how specific services would be provided to individuals with special needs. The Administration was informed that it needed to correct an error in its definition for CMDP. In addition, the Administration corrected an error in its claim submission time-frame which was required by Laws 1999, Ch. 313.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

13. Incorporations by reference and their location in the rules

42 CFR 435.910 as of May 29, 1986, incorporated in R9-31-303.

42 CFR 435.920 as of May 29, 1986, incorporated in R9-31-303.

42 U.S.C. 1396b(m) as of August 5, 1997, incorporated in R9-31-401.

42 U.S.C. 1396u-2 as of August 5, 1997, incorporated in R9-31-401 and R9-31-705.

42 CFR 433.154 as of May 12, 1980, incorporated in R9-31-1001.

14. Was this rule previously adopted as an emergency rule?

No.

15. The full text of the rules follows

TITLE 9. HEALTH SERVICES

CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) CHILDREN'S HEALTH INSURANCE PROGRAM

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ARTICLE 10. 1ST- AND 3RD-PARTY LIABILITY AND RECOVERIES

Section
R9-31-1001. 1st- and 3rd-Party Liability and Coordination of Benefits

ARTICLE 14. ~~RESERVED~~ PREMIUMS

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R9-31-1402. Premium Responsibility
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R9-31-1614. Nursing Facility Services
R9-31-1616. Standards for Payments
R9-31-1618. Claims
R9-31-1619. Hospital Claims Review
R9-31-1623. Copayments and Premiums
R9-31-1625. Behavioral Health Services

ARTICLE 1. DEFINITIONS

R9-31-101. Location of Definitions

A. For purposes of this Article the term member shall be substituted for the term eligible person.

B. Location of definitions. Definitions applicable to Chapter 31 are found in the following.

Definition	*Section or Citation*
1. "1st-party liability"	R9-22-110
2. "3rd-party"	R9-22-110
3. "3rd-party liability"	R9-22-110
4. "Accommodation"	R9-22-107
5. "Action"	R9-31-113
6. "Acute mental health services"	R9-22-112
7. "Administration"	~~R9-31-101~~ A.R.S. § 36-2901
8. "Aggregate"	R9-22-107
9. "AHCCCS"	R9-31-101
10. "AHCCCS hearing officer"	R9-22-108
11. "Ambulance"	R9-22-102
12. "Ancillary department"	R9-22-107
13. "Appeal"	R9-22-108
14. "Appellant"	R9-31-108
15. "Applicant"	R9-31-101
16. "Application"	R9-31-101
17. "ADHS"	R9-31-112
18. "Behavioral health professional"	R9-31-112
19. "Behavioral health services"	R9-31-112
20. "Behavioral health technician"	R9-31-112
21. "Billed charges"	R9-22-107
22. "Capital costs"	R9-22-107
23. "Case management"	R9-31-112

24.	"Certified nurse practitioner"	R9-31-102
25.	"Certified psychiatric nurse practitioner"	R9-31-112
26.	"Child"	42 U.S.C. 1397jj
27.	"Clean claim"	A.R.S. § 36-2904
28.	"CMDP"	R9-31-103
29.	"Continuous stay"	R9-22-101
30.	"Contract"	R9-22-101
31.	"Contractor"	R9-31-101
32.	"Contract year"	R9-31-101
33.	"Copayment"	R9-22-107
34.	"Cost avoidance"	R9-31-110
35.	"Cost-to-charge ratio"	R9-22-107
36.	"Covered charges"	R9-31-107
37.	"Covered services"	R9-22-102
38.	"CPT"	R9-22-107
39.	"CRS"	R9-31-103
40.	"Date of action"	R9-31-113
41.	"Day"	R9-22-101
42.	"Denial"	R9-31-113
43.	"Dentures"	R9-22-102
44.	"DES"	R9-31-103
45.	"Determination"	R9-31-103
46.	"Diagnostic services"	R9-22-102
47.	"Director"	A.R.S. § 36-2981
48.	"DME"	R9-22-102
49.	"DRI inflation factor"	R9-22-107
50.	"EAC"	A.R.S. § 36-2905.03(B)
51.	"ELIC"	A.R.S. § 36-2905.03(C) and (D)
52.	"Emergency medical condition"	42 U.S.C. 1396(v)
53.	"Emergency medical services"	R9-22-102
54.	"Encounter"	R9-22-107
55.	"Enrollment"	R9-31-103
56.	"Facility"	R9-22-101
57.	"Factor"	R9-22-101
58.	"FPL"	A.R.S. § 36-2981
59.	"Grievance"	R9-22-108
60.	"Group Health Plan"	42 U.S.C. 1397jj
61.	"GSA"	R9-22-101
62.	"Guardian"	R9-22-103
63.	"Head of Household"	R9-31-103
~~63.~~64.	"Health plan"	A.R.S. § 36-2981
~~64.~~65.	"Hearing aid"	R9-22-102
~~65.~~66.	"Home health services"	R9-22-102
~~66.~~67.	"Hospital"	R9-22-101
~~67.~~68.	"Household income"	R9-31-103
~~68.~~69.	"ICU"	R9-22-107
~~69.~~70.	"IGA"	R9-31-116
~~70.~~71.	"IHS"	R9-31-116
~~71.~~72.	"IHS" or "Tribal Facility Provider"	R9-31-116
~~72.~~73.	"Inmate of a public institution"	42 CFR 435.1009
~~73.~~74.	"Inpatient hospital services"	R9-31-101
~~74.~~75.	"License" or "licensure"	R9-22-101
~~75.~~76.	"Medical record"	R9-22-101
~~76.~~77.	"Medical review"	R9-31-107
~~77.~~78.	"Medical services"	R9-22-101
~~78.~~79.	"Medical supplies"	R9-22-102
~~79.~~80.	"Medically necessary"	R9-22-101
~~80.~~81.	"Member"	A.R.S. § 36-2981
~~81.~~82.	"MI/MN"	A.R.S. § 36-2901(4)(a) and (c)

~~82.~~83. "New hospital"	R9-22-107
~~83.~~84. "NF"	42 U.S.C. 1396r(a)
~~84.~~85. "NICU"	R9-22-107
~~85.~~86. "Noncontracting provider"	A.R.S. § 36-2981
~~86.~~87. "Occupational therapy"	R9-22-102
~~87.~~88. "Offeror"	R9-31-106
~~88.~~89. "Operating costs"	R9-22-107
~~89.~~90. "Outlier"	R9-31-107
~~90.~~91. "Outpatient hospital service"	R9-22-107
~~91.~~92. "Ownership change"	R9-22-107
~~92.~~93. "Peer group"	R9-22-107
~~93.~~94. "Pharmaceutical service"	R9-22-102
~~94.~~95. "Physical therapy"	R9-22-102
~~95.~~96. "Physician"	A.R.S. § 36-2981
~~96.~~97. "Post stabilization services"	42 CFR 438.114
~~97.~~98. "Practitioner"	R9-22-102
~~98.~~99. "Pre-existing condition"	R9-31-105
~~99.~~100. "Prepaid capitated"	A.R.S. § 36-2981
~~100.~~101. "Prescription"	R9-22-102
~~101.~~102. "Primary care physician"	A.R.S. § 36-2981
~~102.~~103. "Primary care practitioner"	A.R.S. § 36-2981
~~103.~~104. "Primary care provider"	R9-22-102
~~104.~~105. "Primary care provider services"	R9-22-102
~~105.~~106. "Prior authorization"	R9-22-102
~~106.~~107. "Private duty nursing services"	R9-22-102
~~107.~~108. "Program"	A.R.S. § 36-2981
~~108.~~109. "Proposal"	R9-31-106
~~109.~~110. "Prospective rates"	R9-22-107
~~110.~~111. "Prudent layperson standard"	42 U.S.C. 1396u-2
~~111.~~112. "PSP"	R9-31-103
~~112.~~113. "Psychiatrist"	R9-31-112
~~113.~~114. "Psychologist"	R9-31-112
~~114.~~115. "Qualified alien"	P.L. 104-193
~~115.~~116. "Qualifying Health Center"	A.R.S. § 36-2981
~~116.~~117. "Qualifying plan"	A.R.S. § 36-2981
~~117.~~118. "Quality management"	R9-22-105
~~118.~~119. "Radiology services"	R9-22-102
~~119.~~120. "Rebasing"	R9-22-107
~~120.~~121. "Redetermination"	R9-31-103
~~121.~~122. "Referral"	R9-22-101
~~122.~~123. "RBHA"	R9-31-112
~~123.~~124. "Rehabilitation services"	R9-22-102
~~124.~~125. "Reinsurance"	R9-22-107
~~125.~~126. "Request for hearing"	R9-31-108
~~126.~~127. "RFP"	R9-31-106
~~127.~~128. "Respiratory therapy"	R9-22-102
~~128.~~129. "Respondent"	R9-31-108
~~129.~~130. "Scope of services"	R9-22-102
~~130.~~131. "SDAD"	R9-22-107
~~131.~~132. "SMI"	A.R.S. § 36-550
~~132.~~133. "Service location"	R9-22-101
~~133.~~134. "Service site"	R9-22-101
~~134.~~135. "Specialist"	R9-22-102
~~135.~~136. "Speech therapy"	R9-22-102
~~136.~~137. "Spouse"	R9-31-103
~~137.~~138. "SSI-MAO"	R9-31-103
~~138.~~139. "Sterilization"	R9-22-102
~~139.~~140. "Subcontract"	R9-22-101
~~140.~~141. "Substance abuse"	R9-31-112

~~141.~~142. "TRBHA"	R9-31-116
~~142.~~143. "Tier"	R9-22-107
~~143.~~144. "Tiered per diem"	R9-31-107
~~144.~~145. "Title XIX"	42 U.S.C. 1396
~~145.~~146. "Title XXI"	42 U.S.C. 1397jj
~~146.~~147. "Treatment"	R9-31-112
~~147.~~148. "Tribal facility"	A.R.S. § 36-2981
~~148.~~149. "Utilization management"	R9-22-105

C. General definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

~~1. "Administration" means the Arizona Health Care Cost Containment System, its agents, employees and designated representatives.~~

~~2.~~1. "AHCCCS" means the Arizona Health Care Cost Containment System, which is composed of the Administration, contractors, and other arrangements through which health care services are provided to a member.

~~3.~~2. "Applicant" means a person who submits, or on whose behalf is submitted, a written, signed, and dated application for Title XXI benefits which has not been completed or denied.

~~4.~~3. "Application" means an official request for Title XXI benefits made in accordance with Article 3.

~~5.~~4. "Contractor" means a health plan that contracts with the Administration for the provision of hospitalization and medical care to members according to the provisions of this Article or a qualifying plan.

~~6.~~5. "Contract year" means the date beginning on October 1 and continuing until September 30 of the following year.

~~7.~~6. "Inpatient hospital services" means medically necessary services that require an inpatient stay in an acute hospital. Inpatient hospital services are provided by or under the direction of a physician or other health care practitioner upon referral from a member's primary care provider.

R9-31-103. Eligibility and Enrollment Related Definitions

Definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. "CMDP" means ~~Children's~~ Comprehensive Medical and Dental Program.
2. "CRS" means Children's Rehabilitative Services.
3. "DES" means the Department of Economic Security.
4. "Determination" means the process by which an applicant is approved or denied for coverage.
5. "Enrollment" means the process by which a person is determined eligible for and enrolled in the program.
6. "Head of Household" means the household member who assumes the responsibility for providing eligibility information for the household unit.

~~6.~~7. "Household income" means the total gross amount of all money received by or directly deposited into a financial account of a member of the household income group as defined in ~~R9-31-309~~ R9-31-304.

~~7.~~8. "PSP" means Premium Sharing Project, which is a 3-year pilot program established according to A.R.S. § 36-2923.

~~8.~~9. "Redetermination" means the periodic review of a member's continued Title XXI eligibility.

~~9.~~10. "Spouse" means the husband or wife of a Title XXI applicant or household member, who has entered into a contract of marriage, recognized as valid by Arizona.

~~10.~~11. "SSI-MAO" means Supplemental Security Income-Medical Assistance Only.

R9-31-106. Request for Proposal(s) (RFP) Related Definitions

Definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. "Offeror" ~~means a person or other entity which may submit a proposal to the Administration in response to a Request for Proposals~~ means a person or other entity that submits a proposal to the Administration in response to an RFP.
2. "Proposal" means all documents including best and final offers submitted by an offeror in response to a Request for Proposals by the Administration.
3. "RFP" means Request for Proposals ~~of~~ including all documents, whether attached or incorporated by reference, which are used by the Administration for soliciting a proposal according to this Article.

ARTICLE 2. SCOPE OF SERVICES

R9-31-201. General Requirements

A. The Administration shall administer the program specified in A.R.S. § 36-2982.

B. The Director has full operational authority to adopt rules or to use the appropriate rules adopted as specified in A.R.S. § 36-2986.

C. Behavioral health services shall be provided as specified in 9 A.A.C. 31, Article 12.

D. In addition to requirements and limitations specified in this Chapter, the following general requirements apply:

1. As specified in A.R.S. § 36-2989, covered services provided to a member shall be medically necessary and provided by, or under the direction of, a primary care provider or a dentist; specialist services shall be provided under referral from, and in consultation with, the primary care provider.
   a. The role or responsibility of a primary care provider, as defined in these rules, shall not be diminished by the primary care provider delegating the provision of primary care for a member to a practitioner, and
   b. The contractor may waive the referral requirements~~;~~.
2. Services shall be rendered in accordance with state and federal laws and regulations, the *Arizona Administrative Code* and AHCCCS contractual requirements~~;~~.
3. Experimental services as determined by the director, or services provided primarily for the purpose of research, shall not be covered~~;~~.
4. Services or items, if furnished gratuitously, are not covered and payment shall be denied~~;~~.
5. Personal care items are not covered and payment shall be denied~~;~~.
6. Services shall not be covered if provided to:
   a. An inmate of a public institution,
   b. A person who is a resident of an institution for the treatment of tuberculosis, or
   c. A person who is in an institution for the treatment of mental diseases at the time of application.

E. Services shall be provided by AHCCCS registered personnel or facilities, that meet state and federal requirements, and are appropriately licensed or certified to provide the services.

F. Payment for services or items requiring prior authorization may be denied if prior authorization by the contractor is not obtained. Emergency services do not require prior authorization.
1. Services for unrelated conditions, requiring additional diagnostic and treatment procedures, require additional prior authorization.
2. In addition to the requirements of 9 A.A.C. 31, Article 7, written documentation of diagnosis and treatment is required for reimbursement of services that require prior authorization.

G. As specified in A.R.S. § 36-2989, covered services rendered to a member shall be provided within the service area of the member's primary contractor except when:
1. A primary care provider refers a member out of the contractor's area for medical specialty care,
2. A covered service that is medically necessary for a member is not available within the contractor's service area,
3. A net savings in service delivery costs can be documented without requiring undue travel time or hardship for a member or the member's family,
4. A member is placed in a ~~nursing facility~~ NF located out of the contractor's service area, and
5. The service is otherwise authorized by the contractor based on medical practice patterns, and cost or scope of service considerations.

H. When a member is traveling or temporarily residing out of the service area of the member's contractor, covered services are restricted to emergency care services, unless otherwise authorized by the contractor.

I. A contractor shall provide at a minimum, directly or through subcontracts, the covered services specified in these rules and in contract.

J. If a member requests the provision of a service that is not covered by a contractor or not authorized by a contractor, the service may be rendered to a member by an AHCCCS-registered service provider under the following conditions:
1. A document that lists the requested services and the itemized cost of each is prepared by the contractor and provided to the member; and
2. The signature of the member is obtained in advance of service provision indicating that the services have been explained to the member and that the member accepts responsibility for payment.

K. If a member is referred out of a contractor's service area to receive an authorized medically necessary service for an extended period of time, a contractor shall also provide all other medically necessary covered services for a member during that time.

L. The restrictions, limitations, and exclusions in this Article shall not apply to contractors when electing to provide noncovered services.
1. The costs associated with providing any noncovered service to a member shall not be included in development or negotiation of capitation.
2. Noncovered services shall be paid from administrative revenue or other contractor funds, unrelated to Title XXI services.

R9-31-213. Health Risk Assessment and Screening Services

A. As specified in A.R.S. § 36-2989, the following services shall be covered for a member less than 19 years of age:
1. Screening services, including:
   a. Comprehensive health, behavioral health and developmental histories;
   b. Comprehensive unclothed physical examination;
   c. Appropriate immunizations according to age and health history; and
   d. Health education, including anticipatory guidance.

2. Vision services as specified in A.R.S. § 36-2989 including:
   a. Treatment for medical conditions of the eye,
   b. One eye examination per contract year, and
   c. Provision of 1 pair of prescriptive lenses per contract year.
3. Hearing services, including:
   a. Diagnosis and treatment for defects in hearing;
   b. Testing to determine hearing impairment; and
   c. Provision of hearing aids.

B. All providers of services shall meet the following standards:
1. Provide services by or under the direction of, the member's primary care provider or dentist.
2. Perform tests and examinations in accordance with the AHCCCS Administration Periodicity Schedule.
   a. Refer members as necessary for dental diagnosis and treatment, and necessary specialty care.
   b. Refer members as necessary for behavioral health evaluation and treatment services as specified in 9 A.A.C. 31, Article 12.

C. Contractors shall meet the following additional conditions for members:
1. Provide information to members and their parents or guardians concerning services;
2. Notify members and their parents or guardians regarding the initiation of screening and subsequent appointments according to the AHCCCS Administration Periodicity Schedule~~; and~~.

D. Members with special health care needs ~~may~~ shall be referred to the Children's Rehabilitative Service program.

R9-31-216. Nursing Facility Services

A. ~~Nursing facility~~ NF services including room and board shall be covered for a maximum of 90 days per contract year if the medical condition of a member is such that, if ~~nursing facility~~ NF services are not provided, hospitalization of the individual would result.

B. Except as otherwise provided in 9 A.A.C. 28, the following services shall be excluded for purpose of separate billing if provided in a ~~nursing facility~~ NF:
1. Nursing services including but not limited to:
   a. Administration of medication,
   b. Tube feedings,
   c. Personal care services (assistance with bathing and grooming),
   d. Routine testing of vital signs, and
   e. Maintenance of catheters.
2. Basic patient care equipment and sickroom supplies, including, but not limited to:
   a. First aid supplies such as bandages, tape, ointments, peroxide, alcohol, and over the counter remedies;
   b. Bathing and grooming supplies;
   c. Identification devices;
   d. Skin lotions;
   e. Medication cups;
   f. Alcohol wipes, cotton balls, and cotton rolls;
   g. Rubber gloves (non sterile);
   h. Laxatives;
   i. Beds and accessories;
   j. Thermometers;
   k. Ice bags;
   l. Rubber sheeting;
   m. Passive restraints;
   n. Glycerin swabs;
   o. Facial tissue;
   p. Enemas;
   q. Heating pads; and
   r. Diapers.
3. Dietary services including, but not limited to, preparation and administration of special diets, and adaptive tools for eating;
4. Any services that are included in a ~~nursing facility's~~ NF's room and board charge or services that are required of the ~~nursing facility~~ NF to meet federal mandates, state licensure standards, or county certification requirements;
5. Administrative physician visits made solely for the purpose of meeting state licensure standards or county certification requirements;
6. Physical therapy; and
7. Assistive devices and durable medical equipment.

ARTICLE 3. ELIGIBILITY AND ENROLLMENT

R9-31-302. Applications

A. Availability. The Administration shall make available Title XXI applications. Any person may request a Title XXI application.

B. Submission of applications. An application shall be completed and submitted to the Administration:
1. In person,
2. By mail,
3. By fax, or
4. By other form approved by the Administration.

C. Date of application. The date of application is the date the Administration receives an application which:
1. Is signed by ~~a~~ the person making an application,
2. Includes the name of the person for whom assistance is requested, and
3. Includes the address and telephone number of the person submitting the application.

D. Completed application.
1. The Administration shall consider an application complete when:
   a. All questions are answered,
   b. An enrollment choice is included, and
   c. All necessary verification is provided by an applicant or an applicant's representative.
2. When the application is incomplete, the Administration shall:
   a. Contact an applicant or an applicant's representative by telephone to obtain the missing information required for an eligibility determination; or
   b. Mail a pending notice to an applicant or an applicant's representative, allowing 10 days from the date of the notice to provide the required information listed on the pending notice.

E. Eligibility determination processing time.
1. Except when there is an emergency beyond the Administration's control, the Administration shall not delay the eligibility determination beyond 30 days from the date of application when information and verification necessary to make the determination has been provided and obtained.
2. An applicant shall provide the Administration with all requested verification within 10 days from the notice date of the written request for the information. If an applicant fails to provide the requested information and fails to request an extension of the 10 day period, the Administration may deny eligibility.

F. Waiting list. If the Administration stops processing an application because the monies are insufficient as specified in R9-31-301(C)(1), the Administration shall place an applicant on a waiting list and notify the applicant. When increased funding becomes available, the Administration shall contact an applicant on the waiting list and ask the applicant to submit a new application if the original application is more than 60 days old. Spaces will be filled as a completed application is received and approved.

R9-31-303. Eligibility Criteria

Eligibility. To be eligible for the program, a person shall meet all the following eligibility requirements:

A. Age. Is under 19 years of age. A child's coverage will continue through the month in which a child turns age 19 if the child is otherwise eligible;

B. Citizenship. Is a United States citizen or a qualified alien as specified in A.R.S. § 36-2983;

C. Residency. Is a resident of the state of Arizona as specified in A.R.S. § 36-2983. An Arizona resident is a person who currently lives in Arizona and intends to remain in Arizona indefinitely;

D. Income. Meets the income requirements in R9-31-304;

E. Cost sharing. Pays the cost sharing premium amount when premiums are required as specified in A.R.S. § 36-2982 and as specified in 9 A.A.C. 31, Article 14 of this Chapter;

F. Social security number. Provides a social security number or applies for one within 30 days after an applicant submits a Title XXI application as specified in A.R.S. § 36-2983. The Administration shall not deny eligibility for Title XXI if an applicant does not provide or apply for a social security number unless the sole reason the child is ineligible for Title XIX is for failure to comply with social security number requirements specified in 42 CFR 435.910 and 42 CFR 435.920 as of May 29, 1986, which is incorporated by reference herein and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments;

G. Assignment. Assigns rights to any 1st- or 3rd-party coverage of medical care as specified in 9 A.A.C. 31, Article 10;

H. Other federal program. Is not eligible for Title XIX or other federally operated or financed health care insurance program, except the Indian Health Service or a Tribal Facility as specified in A.R.S. § 36-2983;

I. Inmate of a public institution. Is not an inmate of a public institution, as specified in A.R.S. § 36-2983;

J. Patient in an institution for mental disease. Is not a patient in an institution for mental disease at the time of application, or at the time of redetermination, as specified in A.R.S. § 36-2983;

K. Other health coverage. Is not covered under:

1. An employer's group health insurance plan,
2. Family or individual health insurance, or
3. Other health insurance;

L. State health benefits. Is not a member of a family that is eligible for health benefits coverage under a state health benefit plan based on an applicant, a member, or a parent's employment with a public agency in the state of Arizona;

M. Prior health insurance coverage. Has not been covered by health insurance during the previous 6 months unless that health insurance was discontinued due to the involuntary loss of employment or other involuntary reason as specified in A.R.S. § 36-2983. The 6 months of ineligibility due to previous insurance coverage shall not apply to:

1. A newborn as defined in R9-31-309,
2. A Title XIX member as specified in 9 A.A.C. 22, Article 1,
3. An MI/MN member as specified in 9 A.A.C. 22, Article 1,
4. An EAC member as specified in 9 A.A.C. 22, Article 1,
5. An ELIC member as specified in 9 A.A.C. 22, Article 1,
6. A state funded SSI-MAO non-qualified alien as specified in A.R.S. § 36-2903.03,
7. A Title XXI member who loses insurance coverage,
8. A CRS member, or
9. A Native American member receiving services from IHS or a Tribal Facility.

R9-31-306. Enrollment

A. Selection choices.

1. Except as provided in subsections (A)(3), (4), and (5) of this Section, at the time of application, an applicant shall select from the following enrollment choices:
   a. A contractor which includes a health plan or a qualifying plan as defined in A.R.S. § 36-2981,
   b. A qualifying health center as specified in A.R.S. § 36-2907.06, or
   c. The IHS as specified in A.R.S. § 36-2982. If a member is enrolled with the IHS, a member may elect to receive covered services from a participating 638 ~~tribal facility~~ Tribal Facility.
2. Except as provided in subsections (A)(3), (4), and (5) of this Section, coverage shall not begin until a Title XXI enrollment choice is made.
3. The Administration shall enroll a member with CMDP when a member is a foster care child according to A.R.S. § 8-512.
4. When a Title XIX member becomes ineligible for Title XIX and DES determines a child eligible for Title XXI with no break in coverage,
   a. The Title XXI child shall remain enrolled with the Title XIX contractor; and
   b. The Administration shall send the Title XXI member a notice explaining the member's right to choose as specified in subsection (A)(1) of this Section.
5. When a person applies for Title XIX through DES and DES determines a child ineligible for Title XIX but eligible for Title XXI, the Administration shall enroll the child for Title XXI as follows:
   a. If a Title XIX health plan pre-enrollment choice is pending at the time the Administration receives the Title XXI approval from DES, the Administration may:
      i. Enroll a child with the Title XIX health plan, and
      ii. Notify the member of the member's enrollment and provide the member an opportunity to select an enrollment choice as specified in subsection (A)(1) of this Section.
   b. If there is no pending Title XIX choice at the time the Administration receives the Title XXI approval from DES, the Administration shall pend the Title XXI decision and obtain a choice from the member as specified in subsection (A)(1) of this Section.

B. Effective date of initial enrollment.

1. For eligibility determinations completed by the 25th day of the month, enrollment shall begin on the 1st day of the month following the determination of eligibility.
2. For eligibility determination completed after the 25th day of the month, enrollment shall begin on the 1st day of the 2nd month following the determination of eligibility.

C. Enrollment changes.

1. If a member moves from 1 GSA to another GSA during the period of enrollment, enrollment changes will occur as follows:
   a. If a member's current enrollment choice is available in a member's new GSA, a member will remain enrolled with the member's current enrollment choice.
   b. If a member's current enrollment choice is not available in the new GSA, a member shall:
      i. Remain enrolled with the current enrollment choice. The current enrollment choice may limit services to emergency services outside the GSA as specified in R9-31-201.
      ii. Select from the enrollment choices provided in R9-31-306(A)(1) that are available in the new GSA. Once a new choice is made, a member shall be enrolled with the new choice effective with the date the Admin-

istration processes ~~a~~ the member's enrollment choice. Covered services shall be available on the date of the enrollment change.

2. A member may change a member's enrollment choice:
   a. During a member's annual enrollment choice period,
   b. At any time from:
      i. IHS to a contractor as specified in subsection (A)(1) of this Section;
      ii. A contractor to IHS,
      iii. IHS to a qualifying health center as specified in subsection (A)(1) of this Section,
      iv. A qualifying health center to IHS,
      v. A qualifying health center to a contractor.
   c. When a member is no longer a foster care child as specified in subsection (A)(3) of this Section.
3. Except for subsection (C)(2)(c) of this Section, the effective date of the new enrollment choice is the date the Administration processes the enrollment choice. The effective date of the enrollment change from CMDP to a Title XXI choice as specified in subsection (A)(1) of this Section, shall be the first of the following month.

~~E.~~**D.** Annual enrollment choice period. A member shall have the opportunity to change enrollment within at least 12 months from the date of initial enrollment and then 12 months following the last time a member made an enrollment choice or had the opportunity to make an enrollment choice.

~~F.~~**E.** Health Insurance Portability and Accountability Act of 1996. As specified in A.R.S. § 36-2982, a Title XXI member who has been disenrolled shall be allowed to use enrollment in the Title XXI program as creditable coverage as defined in A.R.S. § 36-2984.

R9-31-307. Guaranteed Enrollment

A. Guaranteed enrollment. A child who has been determined eligible for Title XXI will be guaranteed a 1 time 12 month period of continuous coverage unless a child:
1. Attains age 19,
2. Is no longer a resident of the state,
3. Is an inmate of a public institution,
4. Is enrolled with Title XIX,
5. Is determined to have been ineligible at the time of approval,
6. Obtains private or group health coverage,
7. Is adopted and the new household does not meet the qualifications of this program,

~~9.~~8. Is a patient in an institution for mental diseases,

~~11.~~9. Whereabouts is unknown~~.~~, or

10. A child's parent or legal guardian:
   ~~8.~~a. Does not pay cost sharing premium amount when premiums are required as specified in A.R.S. § 36-2982 and as specified in this Chapter,
   ~~10.~~b. Voluntarily withdraws from the program, or
   c. Fails to cooperate in meeting the requirements of the program.

B. The 12 month guaranteed period will begin with the month an applicant is initially enrolled.

R9-31-309. Newborn Eligibility

A. Eligibility. A child born to a Title XXI member, is eligible for 12 months of coverage without filing an application under Title XXI provided:
1. The child continues to live with ~~it's~~ the child's mother during the 12 month period; and
2. One of the events as specified in R9-31-307(A) does not occur.

B. Deemed coverage. A newborn's deemed newborn coverage shall begin effective with a newborn's date of birth and end with the last day of the month in which a newborn turns age 1. Deemed newborn status does not preclude a child from applying for Title XIX and being approved.

C. Enrollment choice for a newborn. A newborn shall be enrolled with a mother's enrollment choice as specified in contract.

D. Notification of enrollment. The Administration shall notify a mother of a newborn's enrollment and provide a mother an opportunity to select an enrollment choice as specified in R9-31-306(A)(1).

R9-31-310. Notice Requirements

A. Applications. Upon completion of a determination of eligibility or ineligibility for any child in the household, the Administration shall issue a written notice to an individual who initiated the application. This notice shall include a statement of the intended action, an explanation of a person's hearing rights as specified in 9 A.A.C. 31, Article 8 and:
1. If approved, the notice shall contain the name and effective date of eligibility for each approved applicant;
2. If denied, the notice shall contain:
   a. The name of each ineligible applicant,
   b. The effective date of the denial,

c. The reasons for ineligibility including appropriate income calculations and income standard when the reason for the denial is based on excess income,
d. The legal authority supporting the reason for ineligibility, and
e. Where the references are physically located for review.

B. Terminations.
1. When the Administration proposes a termination of Title XXI eligibility, the Administration shall provide a member with:
   a. Advance notice at least 10 days before the effective date of the adverse action except as provided in subsection (B)(1)(b) of this Section~~; or~~.
   b. Adequate notice no later than the date of adverse action when a member:
      i. Voluntarily withdraws and indicates an understanding of the results of the action,
      ii. Becomes an inmate of a public institution as specified in R9-31-303(I),
      iii. Dies and the Administration has verification of the death,
      iv. Has whereabouts that are unknown and the Administration's loss of contact is confirmed by returned mail from the post office with no forwarding address, or
      v. Is approved for Title XIX.
2. In addition to the requirements listed in subsection (A)(2) of this Section, the termination notice shall include an explanation of a member's right to continued Title XXI coverage pending appeal as provided in 9 A.A.C. 31, Article 8. A premium paying member has the right to continued Title XXI coverage pending an appeal if the member meets the requirements specified in this Chapter.

ARTICLE 4. CONTRACTS

R9-31-401. General Provisions

A. Administration and contract authority. The Administration shall administer the program as specified in A.R.S. § 36-2982.
B. Rule authority. The Director has full operational authority to use the appropriate rules adopted for contract administration and oversight of contractors as specified in A.R.S. § 36-2986.
C. For purposes of this Chapter, as specified in A.R.S. § 36-2981, contractor includes the following:
1. A health plan as specified in A.R.S. § 36-2981; or
2. A qualifying plan as specified in A.R.S. § 36-2981 and that provides services to members as specified in A.R.S. § 36-2989.

D. Exemption from procurement process. The Administration is exempt from the procurement code as specified in A.R.S. §§ 36-2988 and 41-2501.
E. Contractor's financial responsibility. The Administration shall specify in contract when a person who has been determined eligible will be enrolled with a contractor and the date on which the contractor will be financially responsible for health and medical services to the person as specified in A.R.S. § 36-2987.
F. Contract. A contract may be canceled or rejected in whole or in part as specified in contract if it is deemed by the Director to be in the best interest of the state. The reasons for cancellation or rejection shall be made part of the contract file.
G. Damages or claims. Offerors shall have no right to damages or basis for any claims against the state, its employees, or agents, arising out of any action by the Administration according to the provisions of subsection (F) of this Section.
H. Ownership interest. A contractor shall not knowingly have a director, officer, partner, or person with ownership of more than 5% of the contractor's equity who has been debarred or suspended by any federal agency, as specified in 42 U.S.C. 1396u-2, as of August 5, 1997, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future additions or amendments.
I. Certification. The Administration shall certify a contractor as a risk-bearing entity as specified in contract and as specified in 42 U.S.C. 1396b(m), as of August 5, 1997, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future additions or amendments.

R9-31-407. Contract or Protest, Appeal

The contractor shall file a grievance as specified in ~~A.A.C.~~ R9-22-804.

ARTICLE 5. GENERAL PROVISIONS AND STANDARDS

R9-31-502. Availability and Accessibility of Service

A. A contractor shall provide adequate numbers of available and accessible:
1. Institutional facilities;
2. Service locations;
3. Service sites; and

4. Professional, allied, and paramedical personnel for the provision of covered services, including all emergency medical services for 24 hours a day, 7 days a week.

B. A contractor shall minimally provide the following:
1. A ratio of primary care providers to members, as specified in contract~~;~~.
2. A designated emergency services facility, providing care 24 hours a day, 7 days a week, accessible to members in each contracted service area. One or more physicians and 1 or more nurses shall be on call or on duty at the facility at all times~~;~~.
3. An emergency services system employing at least 1 physician, registered nurse, physician's assistant, or nurse practitioner, accessible by telephone 24 hours a day, 7 days a week, to members who need information in an emergency, and to providers who need verification of patient membership and treatment authorization~~;~~.
4. An emergency services call log or database to track the following information:
   a. Member's name,
   b. Address and telephone number,
   c. Date and time of call,
   d. Nature of complaint or problem, and
   e. Instructions given to member.
5. A written procedure for communicating emergency services information to a member's primary care provider, and other appropriate organizational units~~;~~.
6. An appointment standard as specified in contract for the following:
   a. Emergency appointments,
   b. Urgent care appointments, and
   c. Routine care appointments.
7. Waiting times for members with appointments that do not exceed 45 minutes, except when the provider is unavailable due to an emergency.

C. A contractor shall have an affiliation with or subcontract with an organization or individual to provide primary care services. The contractor shall agree to provide services under the primary care provider's guidance and direction.
1. A primary care provider selected by or to whom an enrolled member is assigned shall be responsible for:
   a. Supervising, coordinating, and providing initial and primary care to the member;
   b. Initiating referrals for specialty care;
   c. Maintaining continuity of member care; and
   d. Maintaining an individual medical record for each assigned member.
2. A primary care provider or specialist providing inpatient services to a member shall have staff privileges in a minimum of 1 general acute care hospital under subcontract with the contractor, within the service area of the contractor.

R9-31-503. Reinsurance

A. Contractor-acquired reinsurance. As specified in A.R.S. § 36-2988, a contractor may obtain reinsurance for coverage of prepaid capitated members. A contractor shall not obtain reinsurance to reduce liability below 25% of the applicable deductible level during any Title XXI contract year. This limitation does not apply to reinsurance obtained by a contractor to cover the cost of services provided by noncontracting providers and nonproviders to a member under emergency circumstances.

B. Administration reinsurance. For purposes of the Administration's reinsurance program, the insured entity shall be a prepaid plan with which the Administration contracts. Only costs incurred during the contract year in which a member is enrolled with a contractor qualify for reinsurance. Any movement of a member from membership with 1 contractor to membership with another contractor shall be cause for resetting the deductible level unless resetting is waived by the Administration.

C. Encounter submission. A contractor shall prepare, review, verify, certify, and submit, encounters for consideration to the Administration.
1. The contractor shall certify that the services listed were actually rendered, medically necessary, and within the scope of Title XXI benefits.
2. The contractor shall submit encounters in the format prescribed by the Administration.
3. The contractor shall initiate and evaluate an encounter for probable 1st-and 3rd-party liability before submitting the encounter for reinsurance consideration to the Administration, unless the encounter involves underinsured or uninsured motorist liability insurance, 1st- and 3rd-party liability insurance, or a tort-feasor.
4. The Administration shall not consider a reinsurance claim for payment unless the claim is received by the AHCCCS Claims Administration not later than ~~9 months from the close of the contract year in which the claim is incurred or 9 months after the date of eligibility posting, whichever is later. If a claim meets the 9-month limitation, the contractor shall file a clean claim which is received by the AHCCCS Claims Administration not later than 12 months from the close of the contract year in which the claim is incurred or 12 months after the date of eligibil-~~

~~ity posting, whichever is later. The 9 month deadline for an inpatient hospital claim begins on the date of discharge for each claim~~ 12 months after the date of service.

D. Encounter processing. The Administration shall process reinsurance associated or related encounters submitted by a contractor.
1. The Administration shall accept for processing only those encounters that are submitted directly by a Title XXI contractor and that comply with the conditions in subsections (B), (C), (E), and (F) of this Section.
2. The Administration shall establish and maintain separate records of all reinsurance cases established and all payments and case reviews made to the contractor as a result of these cases.
3. The Administration shall subject a contractor to utilization of services and other evaluative reviews of care provided to a member that result in a reinsurance case.

E. Payment of reinsurance cases. The Administration shall reimburse a contractor for costs incurred in excess of the applicable deductible level calculated according to the provisions of A.A.C. R9-22-703.

F. The Administration may limit reinsurance reimbursement to a lower or alternative level of care if the Director or designee determines that the less costly alternative could and should have been used by the contractor. A contractor whose reinsurance case is reduced or denied shall be notified in writing by the Administration. The notification shall include the cause for reduction or denial and describe the applicable grievance and appeal process available under 9 A.A.C. 31, Article 8.

G. The Administration or its contractors may arrange special contractual reinsurance terms for catastrophic cases. Catastrophic cases include, but are not limited to organ and bone marrow transplants (excluding kidney and cornea transplants which are covered under regular reinsurance), and hemophiliac cases. The contractor shall notify the Administration when a member is identified for possible reimbursement of Title XXI-approved catastrophic cases. The determination of whether a case or type of case is catastrophic shall be made by the Director based on the following criteria:
1. Severity of medical condition, including prognosis; and
2. Average cost or average length of hospitalization and medical care, or both, in Arizona for the type of case under consideration.

ARTICLE 6. REQUEST FOR ~~PROPOSAL~~ PROPOSALS (RFP)

R9-31-601. General Provisions for RFP

A. The Director has full operational authority to adopt rules or to use the appropriate rules for contract administration and oversight of contracts as specified in A.R.S. § 36-2986.

B. The Administration shall follow the provisions specified in 9 A.A.C. 22, Article 6 for offerors and ~~are~~ is subject to the limitations and exclusions specified in that Article, unless otherwise specified in this Chapter.

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-31-703. Claims

A. Claims submission to contractors. A provider shall submit to a contractor all claims for services rendered to a member enrolled with the contractor as specified in R9-31-705.

B. Overpayments for Title XXI services. When a Title XXI overpayment is made to a contractor, the contractor shall notify the Administration that an overpayment was made. The Administration shall recoup an overpayment from a future claim cycle, or, at the discretion of the Director, require the contractor to return the incorrect payment to the Children's Health Insurance Program Fund.

R9-31-705. Payments by Contractors

A. Authorization. A contractor shall pay for all admissions and covered services rendered to its members if the covered services or admissions have been arranged by the contractor's agents or employees, subcontracting providers, or other individuals acting on the contractor's behalf and if necessary authorization has been obtained. A contractor is not required to pay a claim for covered services that is submitted more than 6 months after the date of the service or that is submitted as a clean claim more than 12 months after the date of the service.

B. Timeliness of provider claim payment.
~~1. A contractor shall reimburse or provide written notice for a claim that is denied or reduced by a contractor to a subcontracting and a noncontracting provider for the provision of medically necessary health care services to a contractor's member, within the time period specified by the contract between a contractor and a subcontracting entity.~~
~~2. Unless the subcontract specifies otherwise, a contractor shall pay 90% of valid clean claims within 30 days of the date of receipt of a claim and 99% of valid the clean claims within 90 days of the date of receipt of a claim, as specified in 42 U.S.C. 1396u-2, as of August 5, 1997, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~

~~3. The notice for a denied or a reduced claim shall be sent within the time-frames specified in this Section, and shall include a statement describing a provider's right to grieve the contractor's denial or reduction of the claim as specified in A.A.C. R9-22-Article 8.~~

1. A contractor shall reimburse, or provide written notice for a claim that is denied or reduced by a contractor, to a subcontracting provider for the provision of medically necessary health care services to a contractor's member, within the time period specified by the subcontract.
2. Unless the subcontract specifies otherwise, a contractor shall pay valid clean claims according to 42 U.S.C. 1396u-2, as of August 5, 1997, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments and states that:
   a. Ninety percent of valid clean claims shall be paid within 30 days of the date of receipt of a claim,
   b. Ninety-nine percent of valid clean claims shall be paid within 90 days of the date of receipt of a claim, and
   c. The remaining 1% of valid clean claims shall be paid within 12 months of the date of receipt of a claim.
3. Unless the subcontract specifies otherwise, a contractor shall provide notice of a denial or a reduction of a claim for:
   a. Ninety percent of the claims within 30 days of the date of receipt of a claim,
   b. Ninety-nine percent of the claims within 90 days of the date of receipt of a claim, and
   c. The remaining 1% of the claims within 12 months of the date of receipt of a claim.
4. A notice of denial or reduction shall include a statement describing the right to grieve the contractor's denial or reduction of a claim according to 9 A.A.C. 22, Article 8.

C. Date of claim. A contractor's date of receipt of an inpatient or outpatient hospital claim shall be the date the claim is received by the contractor as indicated by the date stamp on the claim, the claim reference number, or the date-specific number system assigned by the contractor. A hospital claim shall be considered paid on the date indicated on the disbursement check. A denied hospital claim shall be considered adjudicated on the date of its denial. Claims that are pending for additional supporting documentation will receive new dates of receipt upon receipt of the additional documentation; however, claims that are pending for documentation other than the minimum required documentation specified in either A.R.S. §§ 36-2987 or 36-2904, as applicable, will not receive new dates of receipt. A contractor and a hospital may, through a contract approved in accordance with R9-31-715(A), adopt a method for identifying, tracking, and adjudicating claims that is different from the method described in this subsection.

D. Payment for medically necessary outpatient hospital services.

1. A contractor shall reimburse subcontracting and noncontracting providers for the provision of outpatient hospital services rendered at either a rate specified by subcontract or, in absence of a subcontract, the AHCCCS hospital-specific outpatient cost-to-charge ratio multiplied by covered charges. Subcontract rates, terms, and conditions are subject to review, and approval or disapproval under A.R.S. §§ 36-2987, 36-2904, and R9-31-715.
2. A contractor shall pay for all emergency care services rendered to its members by noncontracting providers or non-providers when the services:
   a. Are rendered according to the prudent layperson standard,
   b. Conform to the definitions of emergency medical and acute mental health services in Article 1 of this Chapter, and
   c. Conform to the notification requirements in Article 2 of this Chapter.

E. Payment for inpatient hospital services. A contractor shall reimburse out-of-state hospitals for the provision of hospital services at negotiated discounted rates, the AHCCCS average cost-to-charge ratio multiplied by covered charges or, if reasonably and promptly available, the Medicaid rate that is in effect at the time services are provided in the state in which the hospital is located, whichever is lowest. A contractor shall reimburse in-state subcontractors and noncontracting providers for the provision of inpatient hospital services at either a rate specified by subcontract or, in absence of a subcontract, the prospective tiered-per-diem amount in A.R.S. §§ 36-2987, 36-2904, 36-2903.01, ~~A.A.C.~~ R9-22-712, and ~~A.A.C.~~ R9-22-718, as applicable. Discounts and penalties shall be as specified in A.R.S. § 36-2987(C). Subcontract rates, terms, and conditions are subject to review and approval or disapproval under A.R.S. §§ 36-2987, 36-2904, and R9-31-715.

F. Payment for observation days. A contractor may reimburse subcontracting and noncontracting providers for the provision of observation days at either a rate specified by subcontract or, in the absence of a subcontract, the AHCCCS hospital-specific outpatient cost-to-charge ratio multiplied by covered charges.

G. Review of hospital claims.

1. If a contractor and a hospital do not agree on reimbursement levels, terms, and conditions, the reimbursement levels established under A.R.S. §§ 36-2987, 36-2904, 36-2903.01, and ~~A.A.C.~~ R9-22-712 or R9-31-718 shall apply. In these cases, a hospital shall obtain prior authorization from the appropriate contractor for nonemergency admissions. A contractor shall consider the medical condition of the member, length of stay, and other factors when issuing its prior authorization. If a contractor and a hospital agree to a subcontract, the parties shall abide by the terms of their contract regarding utilization control activities that may include prior authorization of nonemergency admissions. Failure to obtain prior authorization when it is required shall be cause for nonpayment or denial of the

claim. A hospital shall cooperate with a contractor's reasonable activities necessary to perform concurrent review and make the hospital's medical records, specific to a member enrolled with the contractor, available for review.

2. Regardless of prior authorization or concurrent review activities, all hospital claims, including outlier claims, are subject to prepayment medical review and post-payment review by the contractor. Post-payment reviews shall be consistent with A.R.S. § 36-2987, and erroneously paid claims are subject to recoupment. If prior authorization was given for a specific level of care, but medical review of the claim indicates that a different level of care was appropriate, the contractor may adjust the claim to reflect the more appropriate level of care. An adjustment in level of care shall be effective on the date when the different level of care was medically appropriate.
3. A contractor and a hospital may enter into a subcontract that includes hospital claims review criteria and procedures different from those in this subsection if the subcontract binds both parties and meets the requirements of R9-31-715.

H. Timeliness of hospital claim payment. Payment by a contractor for inpatient hospital admissions and outpatient hospital services shall be subject to A.R.S. §§ 36-2987, 36-2904, and 36-2903.01.

R9-31-711. Copayments and Premiums

A. Contractors shall be responsible for collecting a $5.00 copayment from a member for non-emergency use of the emergency room.
B. A contractor shall ensure that a member is not denied services because of the member's inability to pay a copayment.
C. The Administration shall establish standards for premiums as discussed in 9 A.A.C. 31, Article 14.

R9-31-715. Hospital Rate Negotiations

A. Effective for inpatient hospital admissions and outpatient hospital services contractors that negotiate with hospitals for inpatient or outpatient services shall reimburse hospitals for member care based on the prospective tiered-per-diem amount, the AHCCCS hospital-specific outpatient cost-to-charge ratio multiplied by covered charges in A.R.S. § 36-2987 and ~~A.A.C.~~ R9-22-712, or the negotiated rate that, when considered in the aggregate with other hospital reimbursement levels, does not exceed what would have been paid under A.R.S. § 36-2987 and ~~A.A.C.~~ R9-22-712.

1. Contractors may engage in rate negotiations with hospitals at any time during the contract period.
2. Within 7 days of the completion of the agreement process, contractors shall submit copies of their negotiated rate agreements, including all rates, terms, and conditions, with hospitals to the Administration for approval. Contractors shall demonstrate to the Administration that the effect of their negotiated rate agreement will, when considered in the aggregate, be the same as or produce greater dollar savings than would have been paid under A.R.S. § 36-2987 and ~~A.A.C.~~ R9-22-712.
   a. To demonstrate the aggregate effect of its negotiated rate agreement, contractors shall present their assumptions related to projected utilization of various hospitals to the Administration. The contractor may consider inpatient assumptions related to:
      i. Member mix;
      ii. Admissions by AHCCCS-specified tiers;
      iii. Average length of stay by tier and pattern of admissions, excluding emergency admissions;
      iv. Outliers; and
      v. Risk-sharing arrangements.
   b. The contractor also may consider outpatient assumptions related to member mix and outpatient service utilization. The Administration reserves the right to approve, deny, or require mutually-agreed-to modifications of these assumptions.
   c. When a contractor adjusts or modifies an assumption, the reason for the adjustment or modification shall be presented to the Administration, as well as the new assumption. The Administration may approve, deny, or require mutually-agreed-to modification of an assumption.
   d. To determine whether a negotiated rate agreement produces reimbursement levels that do not in the aggregate exceed what would be paid under A.R.S. § 36-2987 and ~~A.A.C.~~ R9-22-712, a contractor shall require its independent auditors to evaluate the reasonableness of its assumptions as part of its annual audit. The contractor shall ensure that its independent auditor's audit program is consistent with AHCCCS audit requirements and is submitted to the Administration for prior approval.
   e. Negotiated inpatient or outpatient rate agreements with hospitals with a contractor has a related-party interest are subject to additional related party disclosure and evaluation. These evaluations are in addition to the procedures described in subsection (A)(2)(c) and shall be performed by the contractor's independent auditors, or, at the contractor's option, by the Administration.
   f. The Administration shall subject a contractor's independent auditor's report to any examination or review necessary to ensure accuracy of all findings related to aggregate rate determinations.
   g. The Administration shall use its standards, consistent with the Request for Proposals and R9-31-502, to determine whether a contractor's inpatient or outpatient hospital subcontractors will limit the availability or accessi-

bility of services. The Administration reserves the right to reject hospital subcontracts that limit the availability or accessibility of services.

B. The Administration may negotiate or contract with a hospital on behalf of a contractor for discounted hospital rates and may require that the negotiated discounted rates be included in a subcontract between the contractor and hospital.

C. The Director shall apportion any cost avoidance in the hospital component of provider capitation rates between the Administration and provider. The Administration's portion of the cost avoidance shall be reflected in reduced capitation rates paid to providers.

R9-31-717. Hospital Claims Review

A. The contractors shall review hospital claims that are timely received as specified in ~~A.A.C. R9-22-703(B)~~ R9-22-703(A).

B. A charge for hospital services provided to a member during a time when the member was not the financial responsibility of the contractor shall be denied.

C. Personal care items supplied by a hospital, including but not limited to the following, are not covered services:
1. Patient care kit,
2. Toothbrush,
3. Toothpaste,
4. Petroleum jelly,
5. Deodorant,
6. Septi soap,
7. Razor,
8. Shaving cream,
9. Slippers,
10. Mouthwash,
11. Disposable razor,
12. Shampoo,
13. Powder,
14. Lotion,
15. Comb, and
16. Patient gown.

D. The following hospital supplies and equipment, if medically necessary and used, are covered services:
1. Arm board,
2. Diaper,
3. Underpad,
4. Special mattress and special bed,
5. Gloves,
6. Wrist restraint,
7. Limb holder,
8. Disposable item used in lieu of a durable item,
9. Universal precaution,
10. Stat charge, and
11. Portable charge.

E. The hospital claims review shall determine whether services rendered were:
1. Title XXI-covered services;
2. Medically necessary;
3. Provided in the most appropriate, cost-effective, least restrictive setting; and
4. Substantiated by the minimum documentation specified in A.R.S. ~~§~~§ 36-2987.

F. If a claim is denied by the contractor, a grievance challenging the denial may be filed against the entity denying the claim. The grievance shall be filed no later than 12 months from the date of service or 60 days from the date of notice of adverse action, whichever is latest. Any grievance challenging a postpayment review recoupment action shall be filed by the provider no later than 12 months from the date of service or 60 days from the date of the notice of recoupment, whichever is latest.

ARTICLE 10. 1ST- AND 3RD-PARTY LIABILITY AND RECOVERIES

R9-31-1001. 1st- and 3rd-Party Liability and Coordination of Benefits

A. General provisions.
1. As specified in A.R.S. §§ 36-2986 and 36-2987, the Director has full operational authority to adopt rules or to use the appropriate rules adopted for coordination of benefits provided under this Article for any member.
2. The Administration may subcontract distinct administrative functions as permitted by A.R.S. § 36-2986.
3. KidsCare shall be the payor of last resort as specified in A.R.S. § 36-2903.

B. Cost avoidance. The System shall cost avoid all claims or services that are subject to 1st- or 3rd-party liability source, and may deny a service to a member if it knows that a 1st- or 3rd-party will provide the service. The requirement to cost avoid applies to all Title XXI covered services, unless otherwise specified in this Section.

1. Responsible parties. The following parties shall take reasonable measures to identify legally liable 1st- or 3rd-party sources:
   a. Administration,
   b. Contractor,
   c. Provider,
   d. Nonprovider,
   e. Noncontracting provider, and
   f. Member.
2. Coordination of benefits. As specified in A.R.S. § 36-2986, if a contractor does not know whether a particular service is covered by a 1st- and 3rd-party insurer, and the service is medically necessary, the contractor shall contact the 1st- and 3rd-party, and determine whether the service is covered rather than requiring a member to contact the 1st-or 3rd-party. If the contractor knows that the 1st- and 3rd-party insurer will neither pay for nor provide the covered service, and the service is medically necessary, the contractor shall neither deny the service nor require a written denial letter.
3. Copayment, coinsurance, deductible. If a 1st- or 3rd-party insurer (other than Medicare) requires a member to pay any copayment, coinsurance, or deductible, the contractor must decide whether it is more cost effective to provide the service:
   a. Within its network for continuity of care, or
   b. Outside its network for continuity of care under the following conditions:
      i. Advance payments. If an insurer requires payment in advance of a copayment, coinsurance, or deductible, the contractor shall make the payment in advance for the member.
      ii. Limitation of copayment, coinsurance, and deductible amounts. A contractor that meets the requirements in subsection (B)(5) is not responsible for paying a copayment, coinsurance, or deductible that is in excess of what the contractor would have paid for the entire service, per a written contract with the provider performing the service minus any amount paid by the 1st- and 3rd-party.
4. Exceptions. A contractor shall provide the following services, and then coordinate payment with a 1st- and 3rd-party payor:
   a. Emergency service, and
   b. Emergency transportation as specified in A.R.S. § 36-2989.
5. Medically necessary service. A contractor shall ensure that its cost avoidance efforts do not prevent a member from receiving a medically necessary service, and that a member is not required to pay any copayment, coinsurance, or deductible for use of the other insurer's provider;
6. Pre-natal and preventive services. The Administration may require a contractor to provide pre-natal and preventive pediatric services, and then coordinate payment with a liable 1st- or 3rd-party.

C. Member participation. A member shall cooperate in identifying potentially liable 1st- or 3rd-parties and assist the Administration, contractor, provider, nonprovider, or noncontracting provider in pursuing any 1st- or 3rd-party who may be liable to pay for covered services.

D. Collections.

1. The following parties shall cooperate, identify, and notify the Administration of all potential sources of 1st- or 3rd-party liability:
   a. Provider,
   b. Nonprovider, and
   c. Noncontracting provider.
2. The following parties shall pursue collection or reimbursement from all potential sources of 1st- or 3rd-party liability:
   a. The Administration,
   b. Provider,
   c. Nonprovider, and
   d. Noncontracting provider.
3. Contractors shall cooperate, identify, and notify the Administration of all potential sources of 1st- or 3rd-party liability and pursue collection or reimbursement according to R9-31-1002(B).
4. Recoveries: Contractor. A contractor may retain up to 100% of its 1st- and 3rd-party collections if:
   a. Total payments received do not exceed the total amount of the contractor's financial liability for the member. Payments in excess of the contractor's liability shall be reimbursed as described in 42 CFR 433.154, May 12, 1980, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments,

b. Title XXI reinsurance benefits or both have not duplicated the recovery. Any duplicated benefits received shall be reimbursed to the Administration. Payments by the Administration for covered services may supplement payment or benefits from 1st- or 3rd-parties to the extent authorized by this Chapter or applicable contracts,
c. The recovery is not prohibited by federal or state law, and
d. The payments collected are reflected in reduced capitation rates. The Administration may require a contractor to reimburse the Administration up to 100% of collected 1st- and 3rd-party payments that are not reflected in reduced capitation rates.

5. Recoveries: Administration. The Administration may retain its 1st- and 3rd-party collections, reinsurance payments, administrative costs, capitation payments, and any other payments made by the System. The funds collected shall be deposited in the Children's Health Insurance Program Fund as specified in A.R.S. § 36-2995.

~~**ARTICLE 14. RESERVED**~~

ARTICLE 14. PREMIUMS

R9-31-1401. General Requirements

A. Administration. The Administration shall administer the program as specified in A.R.S. § 36-2982.
B. Operational authority. The Director has full operational authority to adopt rules or to use the appropriate rules adopted as specified in A.R.S. § 36-2986.
C. Premium payment requirement. A member shall pay the required premium payment established by the Administration as specified in A.R.S. § 36-2982.
D. Definitions. Household, for purposes of this Article, includes those members as specified in R9-31-304.

R9-31-1402. Premium Responsibility

A. Flat fee. Premiums will be based on a flat fee schedule with breaks based on income level and number of members in a household.
B. Monthly premium amount. A household shall pay a premium based on the number of KidsCare members in a household and the gross household income.
1. For a household with gross household income over 150% FPL but not greater than 175% FPL, the monthly premium payment shall be $10 for a household with 1 member and $15 for household with more than 1 member. At no time shall the premium for a household with income over 150% FPL but not greater than 175% FPL exceed $15 per month.
2. For a household with gross household income over 175% FPL but not greater than 200% FPL, the monthly premium shall be $15 for a household with 1 member and $20 for a household with more than 1 member. At no time shall the premium for a household with income over 175% FPL but not greater than 200% FPL exceed $20 per month.
3. In no instance shall a household's premium payments when combined with a household's copayments as specified in R9-31-711 exceed 5% of a household's gross income.

C. Change in premium.
1. A change in premium may occur as the result of:
a. A change in a household's gross income,
b. A change in the number of people in the Title XXI household income group under R9-31-304, or
c. A change in the number of KidsCare members in the household.
2. Premium changes will be effective the month following the month that the changed circumstances are verified, and the head of household is timely notified of the change.

R9-31-1403. Administration Requirements for Premium Payment

A. Administration requirements for premium paying members.
1. Prepayment of the initial premium is not required for initial enrollment in the program.
2. The monthly premium payment is due on the 15th day of the month of coverage.
3. A payment is considered received when the Administration receives it, evidenced by the Administration's date stamp.
4. If the Administration does not receive the payment by the 15th day of the month, it is considered late.
5. Payments shall 1st be applied to any debt owed. Any remaining amounts shall be applied to the next month's premium charge.
6. If payment for a month is not received in full by the 15th day of the following month, the Administration shall send a 10 day adverse action notice proposing termination to the head of household as specified in R9-31-310(B).
7. If the Administration receives the late payment in full before the effective date of the termination, benefits will be continued, otherwise, services shall end on the effective date.

B. Premium submission by member.
1. A member shall pay the premium in the form of a:

a. Cashier's check,
b. Personal check, or
c. Money order.

2. The Administration may decline to accept a personal check when:
   a. The member has previously paid with a personal check that was returned to the Administration because of insufficient funds, or
   b. The check is to pay for continued services during the grievance and appeal process as specified in R9-31-1405.
3. A member may pay premiums in advance.
4. When a member pays for more than 1 month at a time and is subsequently determined ineligible for the KidsCare program, the Administration shall reimburse the member for any months of coverage not used except as specified in R9-31-1405.

R9-31-1404. Termination for Failure to Pay; Bad Debt

A. Missed payments. If a member's coverage is terminated because of 2 consecutive months with unpaid premiums, the member shall not be reenrolled until all premiums are paid.

B. Termination and reenrollment. A member who is terminated from the program for failure to pay may reapply and be reenrolled as soon as full payment is made. There is no limit to the number of times a member shall be terminated from the program for failure to pay and be reenrolled based on full payment. The Administration shall not impose an extended penalty for failure to pay.

C. Debt. When the a member is terminated from the program for failure to pay the required premiums, payment of the unpaid amount is the responsibility of the head of the household. If the household separates at a later time, the debt remains the responsibility of the original head of the household. Nobody in the household shall be reenrolled in the program until all premiums are paid in full.

R9-31-1405. Grievance and Appeal Process

A. Process. Except as otherwise specified in this Chapter, all Title XXI grievances and appeals relating to an adverse action, decision, or policy shall be processed according to the standards set by the Administration in 9 A.A.C. 31, Article 8, and as specified in contract with contractors and provider agreements.

B. Filing an appeal. A member filing an appeal because of a discontinuance of eligibility and who requests to continue services during the appeal process shall pay 3 full months of premiums in advance to the Administration no later than the effective date of the adverse action. A member who fails to pay 3 full months of premiums in advance may still request a hearing as specified in 9 A.A.C. 31, Article 8, but, services shall not be continued pending the appeal.

C. Payment for continued services pending appeal. A member paying a premium to continue benefits during an appeal process shall pay 3 months of premiums by:
1. Certified check, or
2. Money order.

D. Non-refundable premium. The Administration shall not refund any portion of the advance premiums paid.
1. If a member's appeal is denied, any remaining advance premium paid shall be applied toward the cost to the system.
2. If a member's appeal is upheld, any remaining advance premium paid shall be applied to the next month's premium charge.

R9-31-1406. Newborns

Newborns. All deemed newborns shall be enrolled immediately upon receiving notification of the child's birth. Upon enrollment, the household's premium may be redetermined.

ARTICLE 16. SERVICES FOR NATIVE AMERICANS

R9-31-1602. General Requirements for Scope of Services

A. In addition to the requirements and the limitations specified in this Chapter, the following general requirements apply:
1. As specified in A.R.S. § 36-2989 and R9-31-1625, covered services provided to a member shall be medically necessary and provided by, or under the direction of, the IHS, a Tribal Facility, a provider, or a dentist. Specialist services shall be provided under referral from the IHS or a Tribal Facility provider.
2. If the IHS cannot provide a covered service due to the circumstances delineated in the signed Settlement Agreement CV-86-1105-PHX-RGS, a member shall be referred to a non-IHS provider or a non-IHS facility for the service and a referral form shall be completed and referred to the Administration based on procedures established by the Administration.
3. Experimental services as determined by the Director, or services provided primarily for the purpose of research, shall not be covered;
4. Services or items, if furnished gratuitously, are not covered and payment shall be denied;
5. Personal care items are not covered and payment shall be denied; and
6. Services shall not be covered if provided to:

a. An inmate of a public institution,
b. A person who is a resident of an institution for the treatment of tuberculosis,
c. A person who is in an institution for the treatment of mental diseases at the time of application or at the time of redetermination, or
d. A person prior to the date of eligibility.

B. Services shall be provided by AHCCCS registered personnel or facilities which are appropriately licensed or certified to provide the services.

C. Payment for services or items requiring prior authorization as defined in this Article may be denied if prior authorization from the Administration is not obtained. Emergency services do not require prior authorization.
1. Services for unrelated conditions, requiring additional diagnostic and treatment procedures, require additional prior authorization.
2. Written documentation of diagnosis and treatment is required for reimbursement of services that require prior authorization.

D. As specified in A.R.S. § 36-2989, covered services rendered to a member shall be provided within the service area of the IHS or a Tribal Facility except when:
1. An IHS or a Tribal Facility refers a member out of the area for medical specialty care or behavioral health services,
2. A covered service that is medically necessary for a member is not available within the service area,
3. A member is placed in a ~~nursing facility~~ NF located out of the service area.

E. If a member requests the provision of a service that is not covered by the program or not authorized by the IHS or a Tribal Facility, the service may be rendered to a member by an AHCCCS-registered service provider under the following conditions:
1. A document lists the requested services and the itemized cost of each is prepared by a provider or a nonprovider and provided to a member, and
2. The signature of a member is obtained in advance of service provision indicating that the services have been explained to a member and that a member accepts responsibility for payment.

F. Noncovered services provided to a member by the IHS, a Tribal Facility or under referral may be paid by the IHS or a Tribal Facility, but not with Title XXI funds.

R9-31-1614. Nursing Facility Services

A. ~~Nursing facility~~ NF services including room and board shall be covered for a maximum of 90 days per contract year if the medical condition of a member is such that, if ~~nursing facility~~ NF services are not provided, hospitalization of an individual would result.

B. Except as otherwise provided in 9 A.A.C. 28, the following services shall be excluded for purpose of separate billing if provided in a ~~nursing facility~~ NF:
1. Nursing services including but not limited to:
   a. Administration of medication,
   b. Tube feedings,
   c. Personal care services (assistance with bathing and grooming),
   d. Routine testing of vital signs, and
   e. Maintenance of catheters.
2. Basic patient care equipment and sickroom supplies, including, but not limited to:
   a. First aid supplies such as bandages, tape, ointments, peroxide, alcohol, and over the counter remedies;
   b. Bathing and grooming supplies;
   c. Identification devices;
   d. Skin lotions;
   e. Medication cups;
   f. Alcohol wipes, cotton balls, and cotton rolls;
   g. Rubber gloves (non sterile);
   h. Laxatives;
   i. Beds and accessories;
   j. Thermometers;
   k. Ice bags;
   l. Rubber sheeting;
   m. Passive restraints;
   n. Glycerin swabs;
   o. Facial tissue;
   p. Enemas;
   q. Heating pads; and
   r. Diapers.

3. Dietary services including, but not limited to, preparation and administration of special diets, and adaptive tools for eating;
4. Any services that are included in a ~~nursing facility's~~ NF's room and board charge or services that are required of a ~~nursing facility~~ NF to meet federal mandates, state licensure standards, or county certification requirements;
5. Physical therapy; and
6. Assistive devices and durable medical equipment.

C. Each ~~nursing facility~~ NF admission out of the IHS or a Tribal Facility's service area shall be prior authorized by the Administration.

R9-31-1616. Standards for Payments

A. The Administration shall bear no liability for providing covered services to or completing a plan of treatment for any member beyond the date of termination of a member's eligibility or enrollment as specified in A.R.S. § 36-2987.

B. The Administration shall make payments to the IHS, a Tribal Facility, or under referral from an IHS or a Tribal Facility provider based on the Administration's capped fee schedule as specified in ~~9 A.A.C.~~ R9-22-710 for outpatient services.

C. The Administration shall make payments to the IHS or a Tribal Facility based on the all inclusive inpatient rates published in the *Federal Register.*

D. The Administration shall pay inpatient and outpatient hospital services provided by a provider under referral from the IHS or a Tribal Facility provider based on A.R.S. §§ 36-2987, 36-2904, 36-2903.01, ~~9 A.A.C.~~ R9-22-712 and ~~A.A.C.~~ R9-22-718 as applicable. Discounts and penalties shall be as specified in A.R.S. § 36-2987(C).

E. The Administration shall bear no liability for a subcontract that the IHS or a Tribal Facility executes with other parties for the provision of administrative or management services, medical services, or covered health care services, or for any other purpose. The IHS or a Tribal Facility shall indemnify and hold the Administration harmless from any and all liability arising from the IHS or a Tribal Facility's subcontracts, shall bear all costs of defense of any litigation over the liability, and shall satisfy in full any judgment entered against the Administration in litigation involving the IHS or a Tribal Facility's subcontracts.

R9-31-1618. Claims

A. Claims submission to the Administration.

1. The IHS, a Tribal Facility, a TRBHA, or a provider under referral shall ensure that a claim for covered services provided to a member is initially received by the Administration not later than ~~9 months from the date of service or 9 months from the date of eligibility posting, whichever is later~~ 6 months from the date of service. The Administration shall deny a claim not received within the ~~9 month period from the date of service or 9 months from the date of eligibility posing, whichever is later.~~ 6 month period from the date of service. If a claim meets the ~~9~~ 6 month limitation, the IHS, a Tribal Facility, a TRBHA, or a provider under referral shall file a clean claim which is received by the Administration not later than 12 months from the date of service. ~~or 12 months from the date of eligibility posting, whichever is later.~~
2. The ~~9~~ 6 and 12 month deadlines for an inpatient hospital claim begin on the date of discharge for each claim.

B. Claims processing.

1. If a claim contains erroneous or conflicting information, exceeds parameters, fails to process correctly, does not match the Administration's files, or requires manual review to be resolved, the Administration shall report the claim to a provider with a remittance advice.
2. The Administration shall process a hospital claim in accordance with ~~9 A.A.C.~~ R9-22-712.

C. Overpayments for Title XXI services. An IHS or a Tribal Facility provider, a nonprovider, or a Tribal Facility, shall notify the Administration if a Title XXI overpayment is made. The Administration shall recoup an overpayment from a future claim cycle, or, at the discretion of the Director, require the IHS or a Tribal Facility provider or a nonprovider, to return the incorrect payment to the Administration.

R9-31-1619. Hospital Claims Review

The IHS and a Tribal Facility shall follow the procedures for a hospital claims review as specified in ~~9 A.A.C.~~ R9-22-717.

R9-31-1623. Copayments and Premiums

A. The IHS or a Tribal Facility shall be responsible for collecting a $5 copayment from a member for non-emergency use of the emergency room.

B. The IHS or a Tribal Facility shall ensure that a member is not denied services because of a member's inability to pay a copayment.

C. The Administration shall establish standards for premiums as discussed in 9 A.A.C. 31, Article 14.

R9-31-1625. Behavioral Health Services

A. The IHS, a contractor, a TRBHA, a RBHA or a Tribal Facility may provide any or all of the behavioral health services specified in 9 A.A.C. 31, Article 12, subject to the limitations and specifications stated in 9 A.A.C. 31, Article 12, to a Native American who is eligible for Title XXI services.

B. It is the responsibility of the IHS, a Tribal Facility, a contractor, a TRBHA or a RBHA to monitor the limitations and specifications prescribed in 9 A.A.C. 31, Article 12. Services provided in excess of the limitations and specifications prescribed in 9 A.A.C. 31, Article 12 shall not be reimbursed by the Administration.

C. The IHS, a Tribal Facility, a contractor, a TRBHA or a RBHA shall cooperate as specified in contract, IGA, or this Chapter when the transition from 1 entity to another becomes necessary. For a Title XXI member, this transition shall include tracking and reporting of services used by a member toward the annual limitations prior to the transfer of care.

D. The IHS and a Tribal Facility shall be considered a provider for the provision of behavioral health services and shall be subject to the requirements of:
1. A TRBHA if 1 is operating in a service area, or
2. A RBHA in a service area that does not have a TRBHA or a contractor for a Native American member with respect to prior authorization and service authorizations.

E. If either the IHS or a Tribal Facility cannot provide a nonemergency inpatient or an outpatient behavioral health service, the IHS or a Tribal Facility shall refer the member to a RBHA or TRBHA. ~~determine if a member is:~~
~~1. Less than 18 years old or 18 years old and SMI. A member who is less than 18 years old or 18 years old and SMI, shall be referred to either a TRBHA or a RBHA for the provision of all nonemergency behavioral health services.~~
~~2. 18 years old and not SMI. For a member who is 18 years old and not SMI, the IHS or a Tribal Facility must determine if a member is enrolled with a contractor or the IHS. Depending on the enrollment, a referral shall be done in the following manner for nonemergency behavioral health services:~~
~~a. If a member is enrolled with a contractor, the IHS or a Tribal Facility shall refer a member to a contractor for the provision of all nonemergency behavioral health services.~~
~~b. If a member is enrolled with IHS, the IHS shall refer a member to an appropriate provider for all nonemergency behavioral health services. A Tribal Facility shall refer a member to IHS and IHS shall refer a member to an appropriate provider.~~

F. Behavioral health emergency and crisis stabilization services shall be handled as follows:
1. If a member is enrolled with the IHS or a contractor and is not enrolled with a TRBHA or a RBHA, the IHS or a contractor is responsible for the provision of emergency behavioral health services for up to 3 days per admission, not to exceed 12 days per contract year and, shall refer a member to a TRBHA or RBHA. ~~For an 18 year old, non SMI member, the IHS or a contractor is responsible for all medically necessary treatment subject to the 30 day, 30 visit limitation~~. ~~For a member under age 18, or an 18 year old SMI member, the IHS or a contractor is responsible for up to 3 days per admission, not to exceed 12 days per contract year, and shall refer a member to a TRBHA or a RBHA.~~
2. Inpatient service limitations shall apply to emergency or crisis stabilization services provided on an inpatient basis.
3. Emergency or crisis intervention services provided on an outpatient basis by a psychiatrist, a certified psychiatric nurse practitioner, a psychologist, or a qualified facility shall not count towards the outpatient service limitation.

G. Prior authorization must be obtained for all inpatient hospitalizations and partial care services as authorized in R9-31-1202 and R9-31-1203.

H. A provider shall comply with the requirements specified in subsections (B), (C), and (D) of this Section or payment may be denied, or if paid, may be recouped by the Administration.

I. A behavioral health service provided by the IHS or a Tribal Facility shall be reimbursed as specified in R9-31-1616.

NOTICE OF EXEMPT RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 5. CORPORATION COMMISSION TRANSPORTATION

PREAMBLE

1. Sections Affected	Rulemaking Action
R14-5-201	Amend
R14-5-202	Amend
R14-5-203	Amend
R14-5-204	Amend
R14-5-205	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 40-202, 40-203, 40-321, 40-441 and 40-442 et seq.

Constitutional authority: Arizona Constitution, Article 15

Implementing statute: Not applicable

3. The effective date of the rules:

September 17, 1999

4. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 5 A.A.R. 1124, April 16, 1999.
Notice of Proposed Rulemaking: 5 A.A.R. 1150, April 23, 1999.

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

Name:	Peter Breen, Staff Attorney, Legal Division
Address:	Arizona Corporation Commission 1200 West Washington Street Phoenix, Arizona 85007
Telephone:	(602) 542-3402
Fax:	(602) 542-4870
Name:	Terry L. Fronterhouse – Chief, Office of Pipeline Safety
Address:	Arizona Corporation Commission 1200 West Washington Street Phoenix, Arizona 85007
Telephone:	(602) 542-3316
Fax:	(602) 542-3071

6. An explanation of the rule, including the agency's reasons for initiating the rule:

R14-5-201, R14-5-202, R14-5-203, R14-5-204, and R14-5-205 pertain to the transportation of natural gas, other gas, and hazardous liquids by pipeline and are being amended to recognize changes to Title 49, Code of Federal Regulations (CFR), Parts 40, 191, 192, except I(2) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199. Changes were also made in the requirement to file changes to a pipeline operator's existing operation and maintenance plans and placement of new construction on top of natural gas pipelines.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

None.

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

Not applicable.

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

These amendments will amend already existing rules (R14-5-201, R14-5-202, R14-5-203, R14-5-204, and R14-5-205) under Chapter 5 entitled "Transportation." The proposed amendments to the existing rules are designed to update the Arizona Corporation Commission Pipeline Safety rules to recognize the amendments to Title 49, Code of Federal Regulations (CFR) Parts 40, 191, 192, except I(2) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199, as of November 4, 1998 (minimum safety standards for construction, operation and maintenance of natural gas, other gases, and hazardous liquid pipeline facilities). The amendments will create no additional cost to political subdivisions, small businesses or consumers.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Pursuant to oral and written public comments, nonsubstantive changes to the rules were noticed with the Commission's regularly scheduled open meetings. The rules were amended from proposed rules (before) to final, approved rules (after) as follows:

R14-5-201 – Definitions

Before:

11.~~10.~~ "Sandy type soil" means sand no larger than "coarse" as defined by ASTM D-2487-83 (1993 Edition), incorporated herein by reference and on file with the Office of the Secretary of State.

After:

11.~~10.~~ "Sandy type soil" means sand no larger than "coarse" as defined by ASTM D-2487-83 (1983 ~~1993~~ Edition), incorporated herein by reference and on file with the Office of the Secretary of State.

R14-5-202 – Construction and Safety Standards

Before:

F. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas ~~pipeline system~~ will not construct any part of a hazardous liquid, natural gas or other gas pipeline system under a building. For building encroachments over a pipeline ~~natural gas~~ system ~~piping~~, the operator may require the property owner to resolve the encroachment (that is, moving the building or reimbursing the operator for relocating the pipeline system ~~gas piping~~). The operator will discontinue service within 180 days of discovery, to properties for which encroachment issues are not resolved.

After:

F. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas ~~pipeline system~~ will not construct any part of a hazardous liquid, natural gas or other gas pipeline system under a building. For building encroachments over a pipeline ~~natural gas~~ system, the operator will discontinue service within 180 days of discovery, or will submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline Safety may then extend the 180 day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment. ~~piping, the operator may require the property owner to resolve the encroachment (that is, moving the building or reimbursing the operator for relocating the gas piping). The operator will discontinue service, to properties for which encroachment issues are not resolved.~~

R14-5-202(G)

Before:

G. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline system will not construct any part of a pipeline system ~~main or service line of a natural gas system~~ closer than 8 inches to any other underground structure. ~~If the 8 inch clearance cannot be maintained from other underground structures, a sleeve, casing, or shielding may be used upon verification by the Pipeline Safety Section.~~

After:

G. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline system will not construct any part of a pipeline system ~~main or service line of a natural gas system~~ closer than 8 inches to any other underground structure. If the 8 inch clearance cannot be maintained from other underground structures, a sleeve, casing, or shielding shall ~~may~~ be used. ~~upon verification by the Pipeline Safety Section.~~

R14-5-202(I)

Before:

I. Operators of an intrastate pipeline shall not install or operate a gas regulator that might release gas in its operation closer than 3 feet to a source of ignition, opening into a building, air intake into a building or to any electrical source not intrinsically safe.

After:

I. Operators of an intrastate pipeline shall not install or operate a gas regulator that might release gas in its operation closer than 3 feet to a source of ignition, opening into a building, air intake into a building or to any electrical source not intrinsically safe. The three (3) foot clearance from a source of ignition will be measured from the vent or source of release (discharge port), not from the physical location of the meter set assembly. This subsection shall not be effective with respect to building permits which are issued and subdivisions which are platted prior to October 1, 2000.

R14-5-202(K) (Deleted from final rules and subsections renumbered. Proposed subsection R134-5-202(L) is now subsection (K) of R14-5-202.)

K.~~J.~~ Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, November 4, 1998 ~~February 25, 1997~~ (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

R14-5-202(M) (Subsection (N) renumbered to subsection (M) and amended.)

M. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline systems will not install plastic pipe aboveground unless the plastic pipeline is protected by a metal casing, or equivalent, and approved by the Office of Pipeline Safety. Temporary aboveground plastic pipeline bypasses are permitted for up to sixty (60) days, provided that the plastic pipeline is protected and is under the direct supervision of the operator at all times.

R14-5-202(O)~~L~~

Before:

O.~~L.~~ Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline system that construct a pipeline or any portion thereof using plastic pipe, will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. The trace wire shall not be taped to or wrapped around the plastic pipe.

After:

N.~~L.~~ Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline system that construct a pipeline or any portion thereof using plastic pipe, will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe. Tracer wire may be taped, or attached in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.

R14-5-202(R) (Subsection (R) of proposed rules renumbered and amended as subpart (Q).)

Before:

R. Operators of an intrastate pipeline system transporting hazardous liquid, natural gas or other gases shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104.

After:

Q. Operators of an intrastate pipeline system transporting hazardous liquid, natural gas or other gases shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104. The qualification of welders delineated in 49 CFR 192, appendix C may be used for low stress level pipe.

R14-5-202S.~~O.~~ (Subsection (S) renumbered to subsection (R) and amended.)

Before:

S.~~O.~~ Operators of an intrastate pipeline transporting natural gas or other gas pipeline system shall survey and ~~will~~ grade all detected leakage by the following standard: ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 except 4.4(c) (1983 Revision), ~~Leak Classification and Action Criteria,~~ incorporated by reference and on file with the Office of the Secretary of State. ("Should" as referenced in the standards will be interpreted to mean "shall"). Leakage survey records shall identify in some manner each pipeline surveyed. Records shall be maintained to demonstrate that the required leakage survey has been conducted.

After:

R.~~O.~~ Operators of an intrastate pipeline transporting natural gas or other gas pipeline system shall survey and ~~will~~ grade all detected leakage by the following guide ~~standard~~: ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 except 4.4(c) (1983 Revision), ~~Leak Classification and Action Criteria,~~ incorporated by reference and on file with the Office of the Secretary of State. ("Should" as referenced in the Guide will be interpreted to mean "shall"). Leakage survey records shall identify in some manner each

pipeline surveyed. Records shall be maintained to demonstrate that the required leakage survey has been conducted.

R14-5-203 - Pipeline Incident Reports and Investigations

Before:

(B)(1)(d):

d. Overpressure of a pipeline system in excess of 10% of the established MAOP of the pipeline.

After:

d. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%.

Before:

(C)(1)(e):

e. Overpressure of a pipeline system in excess of 10% of the established MAOP of the pipeline.

After:

e. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%.

R14-5-205 - Master Meter System Operators

Before:

H. Operators of a master meter system that construct a pipeline or any portion thereof using plastic pipe will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. The trace wire shall not be taped to or wrapped around the plastic pipe.

After:

H. Operators of a master meter system that construct a pipeline or any portion thereof using plastic pipe will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe. Tracer wire may be taped, or attached in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.

R14-5-205(N) (Deleted from final rules and subparts renumbered. Proposed subsection R14-5-202(O) is now subpart (N).)

N.~~M.~~ Operators of a master meter system will file a Notice of Construction 30 days prior to commencement of the construction of any pipeline. The Notice will contain the following information:

1. The dates of construction,
2. The size and type of pipe to be used,
3. The location of construction, and
4. The Maximum Allowable Operating Pressure (MAOP).

R14-5-205

Before:

P.~~N.~~ Operators of a master meter system will perform leakage surveys at intervals not exceeding 15 months but at least once each calendar year and will survey and grade all detected leakage by the following standard -- ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 (1983 Revision), except 4.4(c), ~~and no future amendments)~~, ~~Leak Classification and Action Criteria,~~ incorporated by reference, on file with the Office of the Secretary of State, and copies available from ASME, United Engineering Center, 345 East 47th Street, New York, New York 10017. ("Should" as referenced in the standards will be interpreted to mean "shall".) Leak detection procedures shall be approved by the Office of Pipeline Safety ~~Section~~.

After:

O.~~N.~~ Operators of a master meter system will perform leakage surveys at intervals not exceeding 15 months but at least once each calendar year and will survey and grade all detected leakage by the following guide ~~standard~~ -- ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 (1983 Revision), except 4.4(c), ~~and no future amendments)~~, ~~Leak Classification and Action Criteria,~~ incorporated by reference, on file with the Office of the Secretary of State, and copies available from ASME, United Engineering Center, 345 East 47th Street, New York, New York 10017. ("Should" as referenced in the guide will be interpreted to mean "shall".) Leak detection procedures shall be approved by the Office of Pipeline Safety ~~Section~~.

11. A summary of the principle comments and the agency response to them:

Oral and written comments were evaluated and resolution approved by the Commission as follows:

R14-5-201 - Definitions

Issue: To define the term "Business District," the Arizona Utilities Group ("AUG") proposed the following language, "Business District means an area where one hundred or more people congregate daily for industrial and commercial purposes and two or more buildings used for these purposes are located within 100 yards of each other."

Asarco, Incorporated ("Asarco") expressed concern that the term "Business District" was unnecessary, could lead to undue confusion and should not be included within the definitions of the proposed amendments. Asarco also argues further that the definition is rendered more vague because it utilizes the word "public" and it is not clear or concise.

Southwest Gas Corporation ("Southwest") expressed concern with the timeframe for required leak surveys in the newly identified "Business Districts" and requested a one year delay in implementation.

Northern States Power Company ("NSP") expressed concern with whether businesses conducted in a private home such as day care, beauty salons or like enterprises would be included.

Staff argued that AUG's recommendation would not be workable because it would require operators and regulators to take a census in order to make a determination whether the area would be included in the definition and instead stated that the term "public" within the context of the proposed rule "means areas where people congregate to conduct business or customarily assemble." Staff believes its proposed rule would reduce the frequency of violations, pipeline incidents and fines arising under 49 CFR192.723 that are based on misunderstanding of the meaning of the term "Business District". Staff further indicated that the proposed definition only applies to pipeline operators who operate distribution systems as described in 49 CFR192.723. Staff agreed to Southwest's request for a 1 year delay in the implementation of the requirement for leak surveys in newly identified "Business Districts."

Evaluation: We concur with Staff.

Resolution: No change to the proposed rule is required.

R14-5-202 – Construction and Safety Standards

R14-5-202(B)

Issue: This standard delineates the methodology to be used to test metal pipeline for cathodic protection. AUG proposed that no change be made in section 202(B) because it would be inconsistent with federal pipeline safety rules contained within 49 CFR Part 192 and eliminates and restricts an operator from using acceptable industry standards in establishing cathodic protection using what is known as the 100mV standard as is permitted under federal rule.

Staff argued that the 100mV standard is rarely used and tends to qualify marginal pipe and such misapplication of the 100mV criteria can result in liability for an operator with substantial penalties and other costs associated with a pipeline incident. Staff acknowledged that when an operator desires to use the 100mV criteria, an application for a waiver can be made with testing to be done under Staff's supervision.

Evaluation: We concur with Staff.

Resolution: No change to the proposed rule is required.

R14-5-202(F)

Issue: This rule requires an operator to discontinue gas service within 180 days of discovery that a building has been constructed over a pipeline. AUG proposed alternate language which could result in an extension of the 180-day deadline if an operator applies to the Office of Pipeline Safety within 90 days of the discovery for an extension of the deadline with the submission of a formal action plan when encroachment issues are not resolved.

NSP expressed concerns with respect to a scenario where a smaller mobile home was replaced with a larger model

that encroached over an existing gas line.

Staff agreed with AUG's comments that extensions of the 180-day deadline could be approved by the Office of Pipeline Safety if a waiver were applied for and granted. Staff further pointed out that the scenario described by NSP is specifically the type of activity which it is seeking to control because of the inherent dangers in such situations. In adopting AUG's comments, Staff recommended that the following language be added to the proposed rule: "The operator will discontinue service within 180 days of discovery, or will submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline Safety may then extend the 180-day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment."

Evaluation: We concur with AUG and Staff.

Resolution: Modify Section 202(F) as discussed above.

R14-5-202(G)

Issue: The proposed amendment requires that there be an 8-inch separation between a gas pipeline and other underground facilities which may have been previously constructed. AUG and NSP concurred that the separation should be maintained, but where circumstances require less than 8 inches, adequate protection techniques should be utilized such as constructing a sleeve or casing or other shielding. AUG and NSP also argued that there should not be a requirement that they secure prior approval from the Office of Pipeline Safety. Staff concurred with AUG's and NSP's comments and recommended the deletion of the following words: "upon verification by the Pipeline Safety Section."

Evaluation: We concur with AUG, NSP and Staff.

Resolution: Modify Section 202(G) as discussed above.

R14-5-202(I)

Issue: The proposed rule requires that gas regulators capable of releasing gas be installed no closer than 3 feet from sources of ignition, building openings, air intakes or intrinsically unsafe electrical sources. AUG argued that the proposed rule provides no additional safety for the public and that current construction practices, procedures and policies allow for an 18-inch separation and that the adoption of the rule would be inconsistent with R14-2-208(F). AUG further commented that a number of additional organizations be notified with respect to the adoption of the proposed rules.

AUG was joined in its arguments by the Home Builders Association of Central Arizona ("HBACA") and the Southern Arizona Home Builders Association ("SAHBA"). The home builders and Southwest also argued for a one year delay from the effective date of the Decision with respect to the implementation of this Section. HBACA also attached copies of the specifications utilized by the Salt River Project and Arizona Public Service Company documenting the utilization of an 18-inch minimum separation standard between electric and gas meters.

NSP commented that the proposed rule should allow the regulator itself to be installed within 3 feet of such points of ignition and air intakes, so long as the discharge pipe opening is further than 3 feet from such point of ignition.

Staff disagreed with the comments of AUG and HBACA and SAHBA adding that no additional notice of any organizations is necessary because the rulemaking has been published in the Arizona Administrative Register. Staff agreed with the home builders' and Southwest's request for a one year delay in the implementation of Section 202(I) and with NSP's recommendation and pointed out that the American Gas Association, an industry trade group, advocates the proposed 3 foot standard and that it is also supported by the National Fire Protection Association/American Standards Institute and utilized by Citizens Utilities Company in its gas operations. In agreeing with NSP, the home builders, and Southwest, Staff proposed adding the following language to section 202(I), "The three (3) foot clearance from a source of ignition will be measured from the vent or source of release (discharge port), not from the physical location of the meter set assembly." This section shall not be effective with respect to building permits which are issued or subdivisions which are platted prior to October 1, 2000.

Evaluation: We concur with NSP and Staff.

Resolution: Modify section 202(I) as discussed above.

R14-5-202(J)

Issue: The rule requires that the 100mV criteria not be used to qualify metal natural gas pipe. AUG commented that the rule was inconsistent with the federal pipeline safety rules contained within 49 CFR Part 192 and restricted an operator from using acceptable industry standards without obtaining a waiver.

Staff commented that operators have failed to correctly apply the 100mV criteria which is rarely used and this creates considerable liability for the operators and their customers. Staff believes that the 100mV criteria should be applied on a case-by-case waiver basis which will enable Staff to oversee the work and determine that it has been applied correctly.

Evaluation: We concur with Staff.

Resolution: No change in the proposed rule is required.

R14-5-202(K)

Issue: The proposed rule deals with the methodology for determining voltage for a cathodic test of pipeline. AUG argues that this matter is covered entirely by 49 CFR192, Appendix D and should be removed in its entirety. Staff agrees.

Evaluation: We concur with AUG and Staff.

Resolution: Delete section 202(K) and renumber accordingly.

R14-5-202(N)

Issue: This rule requires that operators of intrastate pipelines which transport hazardous liquids not use plastic pipe above ground unless the plastic pipe is protected by a metal casing. AUG supported the proposed rule and suggested adding the following language: after the words, "metal casing", "or equivalent", and adding after the words, "Office of Pipeline Safety", "Temporary above ground plastic pipeline bypasses are permitted, for up to 60 days, provided that the plastic pipeline is protected and is under the direct supervision of the operator at all times."

Staff agreed with AUG's comments.

Evaluation: We concur with AUG and Staff.

Resolution: Modify section 202(N) as discussed above.

R14-5-202(O)

Issue: The proposed rule prohibits the taping or wrapping of trace wire (wire designed to facilitate location of the pipe once it is covered with dirt) around the pipeline. AUG argued that taping of trace wire should be permitted so long as it is not detrimental to the integrity of the pipe wall.

Staff agreed with AUG and deleted the proposed wording, "The trace wire shall not be taped to or wrapped around the plastic pipe." Staff then added the following language, "Tracer wire shall be permitted to be taped, or attached in some manner, to the pipe provided that the adhesive of the tape is not detrimental to the integrity of the pipe wall."

Evaluation: We concur with Staff's adoption of AUG's comments.

Resolution: Modify section 202(O) as discussed above.

R14-5-202(R)

Issue: This rule requires that welding be performed in accordance with American Petroleum Institute ("API") Standard 1104 and requires each welder to qualify to this standard. AUG commented that operators should be allowed to continue the welding criteria in 49 CFR 192, Appendix C.

NSP commented that API 1104 is not intended to be used as a welding procedure and that the proposal would place an additional burden on the operator and add expense to retain the welder's qualification as compared to 49 CFR 192, Appendix C.

Staff indicated that Appendix C deals only with low stress pipelines, but Staff is in agreement with AUG that 49 CFR 192, Appendix C should be acceptable and ameliorate NSP's concerns with cost. Staff proposes adding the following language to the proposed rule, "The qualification of welders delineated in 49 CFR 192, Appendix C maybe used for low stress level pipe."

Evaluation: We concur with AUG and Staff.

Resolution: Modify section 202(R) as discussed above.

R14-5-202(S)

Issue: This rule would require that leak surveys be graded according to the ASME Guide for Gas Transmission and

Distribution Pipeline System Guide Material, Appendix G-11-1983 except for 4.4(c) (1983 revision).

AUG commented that the standards should be voluntary and not mandatory, stating that the ASME reference should only be considered a guide, and not a standard.

Staff disagreed with AUG, indicating that it believes that the grading of leaks should be standardized and that the ASME reference should be followed.

Evaluation: We concur with Staff.

Resolution: No change in the proposed rule is required.

R14-5-203 – Pipeline Incident Reports and Investigations

R14-5-203(B)

Issue: This rule deals with reporting requirements for pipeline safety incidents. AUG commented that the proposed rule is not appropriate for low pressure pipelines and offered suggested wording to take into account the operating standards of lower pressure pipelines. AUG's comments were supported by NSP.

Staff concurred with AUG's comments, deleted the proposed language and replaced section 203(B)(1)(d) with the following language: "Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%."

Evaluation: We concur with Staff's adoption of AUG's comments.

Resolution: Modify section 203(B)(1)(d) as discussed above.

R14-5-204 – Annual Reports

R14-5-204(A)

Issue: This rule deals with the filing date for the annual reports filed by operators with the Office of Pipeline Safety. AUG commented that the report date should be changed from March 1 to March 15 in order to be consistent with other filing deadlines of the Arizona Corporation Commission. Staff agreed with AUG's comment.

Evaluation: We concur.

Resolution: Replace "1" with "15".

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

13. Incorporations by reference and their location in the rules:

Title 49, Code of Federal Regulations (CFR), Parts 40, 191, 192, except I(2) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199. Revised standard ASTM D2513-95c (1995c Edition) and D2513-96a (1996 Edition) are incorporated by reference in these CFR parts. These regulations cover the minimum safety standards for the construction and operation of gas and hazardous liquid pipelines. These regulations may be found at the Arizona Corporation Commission, Utilities Division, Pipeline Safety Section, 1200 West Washington St., Phoenix, Arizona 85007. Regulations are incorporated by reference in the amended rules at R14-5-202(B), (C), (E)(1), (E)(2), (J), (K), (P), (Q), (R), R14-5-203(C)(2), (C)(3), (C)(5), R14-5-204(A)(1), (A)(2), and R14-5-205(B), (C), (G), (J), (K), (O), (P).

14. Was this rule previously adopted as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 5. CORPORATION COMMISSION
TRANSPORTATION

ARTICLE 2. PIPELINE SAFETY

ARTICLE 2. PIPELINE SAFETY

R14-5-201. Definitions

As used in this Article:

1. "Abandon" means disconnecting the pipeline from all sources and supplies of gas, purging the gas within the pipeline being disconnected and capping all ends.
2. "Building" means any structure intended for supporting or sheltering any occupancy.
3. "Business District" means an area where the public congregate for economic, industrial, religious, education, health or recreational purposes and 2 or more buildings used for these purposes are located within 100 yards of each other.

4.~~3.~~ "Commission" means the Arizona Corporation Commission.

5.~~4.~~ "Intrastate pipeline" means all pipeline facilities included in the definition of "pipeline system" that are used by public service corporations to transport natural gas, other gas or hazardous liquids within Arizona, that are not used to transport gas or hazardous liquids in interstate or foreign commerce. This includes, without limitation, any equipment, facility, building or other property used or intended for use in transporting gas or hazardous liquids.

6.~~5.~~ "Master meter system" means physical facilities for distributing gas within a definable area where the operator purchases metered gas from a public service corporation to provide gas service to 2 ~~two~~ or more buildings other than at a single family residence.

7.~~6.~~ "Operator" means a person that owns or operates a pipeline system or master meter system.

8.~~7.~~ "Person" means any individual, firm, joint venture, partnership, corporation, association, cooperative association, joint stock association, trustee, receiver, assignee, personal representative, the state or any political subdivision thereof.

9.~~8.~~ "Pipeline system" means all parts of those physical facilities that are used by public service corporations through which natural gas, liquefied natural gas ("LNG"), other gases or hazardous liquids move in transportation including, but not limited to, pipes, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies.

10.~~9.~~"Office of Pipeline Safety ~~Group~~" means the ~~Section of~~ Pipeline Safety personnel for the Commission.

11.~~10.~~"Sandy type soil" means sand no larger than "coarse" as defined by ASTM D-2487-83 (1983 ~~1993~~ Edition), incorporated herein by reference and on file with the Office of the Secretary of State.

12.~~11.~~"State" means the State of Arizona and all lands within its boundaries.

13.~~12.~~"Structure" means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner.

14.~~13.~~"Transport" or "transportation" of gas, LNG or hazardous liquids is the gathering, transmission, distribution and storage of gas, LNG or hazardous liquids by pipeline within the State.

R14-5-202. Construction and Safety Standards

A. Applicability: This rule applies to the construction, reconstruction, repair, operation and maintenance of all intrastate natural gas, other gas and hazardous liquid pipeline systems.

B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 40, 191, 192 except I (2) and (3) of Appendix D to Part 192, 193, 195, except 195.1(b)(2) and (3), and 199, revised as of November 4, 1998 ~~February 25, 1997~~ (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

C. The above mentioned incorporated Parts of 49 CFR, except Parts 191 and 195, Subpart B, are revised as follows:

1. Substitute "Commission" where "Office of Pipeline Safety, Research and Special Programs Administration" or "Office of Pipeline Safety" (OPS) appear.
2. Substitute "Office of Pipeline Safety ~~Section~~, Arizona Corporation Commission, at its office in Phoenix, Arizona" where addresses for the Information Systems Manager, Materials Transportation Bureau, Department of Transportation or Office of Chief Counsel appear.

D. Operators of an intrastate pipeline will file with the Commission an Operation and Maintenance Plan (O & M), including an emergency plan, 30 days prior to placing a pipeline system into operation. ~~within 120 days of the effective date of this rule.~~ Any changes in existing plans will be filed within 30 days of the effective date of the change.

E. Operators of an intrastate pipeline transporting sour gas or oil are subject to industry standards addressing facilities handling hydrogen sulfide (H_2S). Standards adopted are:

1. NACE standard MR-01-75 (1980 Revision); materials equipment-sulfide stress cracking resistant metallic material for oil field equipment, incorporated by reference and on file with the Office of the Secretary of State.
2. API RP55 (1981 Edition); API recommended practice for conducting oil and gas production operations involving hydrogen sulfide, incorporated by reference and on file with the Office of the Secretary of State.

F. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas ~~pipeline system~~ will not construct any part of a hazardous liquid, natural gas or other gas pipeline system under a building. For building encroachments over a pipeline ~~natural gas~~ system, the operator will discontinue service within 180 days of discovery, or will submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline Safety may then extend the 180 day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment. ~~piping, the operator may require the property owner to resolve the encroachment (that is, moving the building or reimbursing the operator for relocating the gas piping). The operator will discontinue service, to properties for which encroachment issues are not resolved.~~

G. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline system will not construct any part of a pipeline system ~~main or service line of a natural gas system~~ closer than 8 inches to any other underground structure. If the 8 inch clearance cannot be maintained from other underground structures, a sleeve, casing, or shielding shall ~~may~~ be used. ~~upon verification by the Pipeline Safety Section.~~

H. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system, that have regulators, meters, or regulation meter sets that have been out of service for 36 months will abandon those lines and cap all ends.

I. Operators of an intrastate pipeline shall not install or operate a gas regulator that might release gas in its operation closer than 3 feet to a source of ignition, opening into a building, air intake into a building or to any electrical source not intrinsically safe. The 3 foot clearance from a source of ignition will be measured from the vent or source of release (discharge port), not from the physical location of the meter set assembly. This subsection shall not be effective with respect to building permits which are issued and subdivisions which are platted prior to October 1, 2000.

J.~~I.~~ Operators of an intrastate pipeline system transporting natural gas~~.~~ ~~or~~ other gases or hazardous liquid ~~gas pipeline system~~ will utilize a cathodic protection system designed to protect the metallic pipeline ~~pipe, when used,~~ in its entirety, in accordance with 49 CFR 192, Subpart I, November 4, 1998 ~~February 25, 1997~~ (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975~~.~~ ~~Such a cathodic protection will be in operation within 1 year after completion of construction~~ except I (2) and (3) of Appendix D to Part 192 shall not be utilized.

K.~~J.~~ Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, November 4, 1998 ~~February 25, 1997~~ (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

L.~~K.~~ Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline system will not install Acrylonitrite-Butadiene-Styrene (ABS) or aluminum pipe in their systems.

M. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline systems will not install plastic pipe aboveground unless the plastic pipeline is protected by a metal casing, or equivalent, and approved by the Office of Pipeline Safety. Temporary aboveground plastic pipeline bypasses are permitted for up to 60 days, provided that the plastic pipeline is protected and is under the direct supervision of the operator at all times.

N.~~L.~~ Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline system that construct a pipeline or any portion thereof using plastic pipe, will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe. Tracer wire may be taped, or attached in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.

O.~~M.~~ Operators of an intrastate pipeline transporting natural gas or other gas pipeline system that construct an underground pipeline using plastic pipe, will bury the installed pipe with a minimum of 6 inches ~~inch~~ of sandy type soil surrounding the pipe for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety ~~Section~~.

P.~~N.~~ Operators of an intrastate pipeline transporting natural gas or other gas pipeline system that construct an underground pipeline using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe shall be marked CD or CE as required by ASTM D2513-95c~~90c~~ (1995c ~~1990c~~ Edition and no future editions), incorporated by reference, on file with the Office of the Secretary of State, and copies available from ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187, for areas where the service temperature is above 100°F.

Q. Operators of an intrastate pipeline system transporting hazardous liquid, natural gas or other gases shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104. The qualification of welders delineated in 49 CFR 192, appendix C may be used for low stress level pipe.

R.O. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system shall survey and ~~will~~ grade all detected leakage by the following guide ~~standard~~: ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 except 4.4(c) (1983 Revision), ~~Leak Classification and Action Criteria,~~ incorporated by reference and on file with the Office of the Secretary of State. ("Should" as referenced in the Guide will be interpreted to mean "shall"). Leakage survey records shall identify in some manner each pipeline surveyed. Records shall be maintained to demonstrate that the required leakage survey has been conducted.

S.P. All repair work performed on existing intrastate pipeline transporting natural gas or other gas pipeline system will comply with the provisions of this Article.

T.Q. The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public and pipeline safety.

U.R. To ensure compliance with provisions of this rule the Commission or an authorized representative thereof may enter the premises of an operator of an intrastate pipeline to inspect and investigate the property, books, papers, business methods, and affairs that pertain to the pipeline system operation.

V.S. All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.

R14-5-203. Pipeline Incident Reports and Investigations

A. Applicability. This rule applies to all intrastate pipeline systems.

B. Required incident reports by telephone:

1. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will notify by telephone the Office of Pipeline Safety ~~Section~~ upon discovery of the occurrence of any of the following:
   a. The release of natural gas, other gas or liquefied natural gas (LNG) from a pipeline or LNG facility, when any of the following results:
      i. Death or personal injury requiring hospitalization.
      ii. An explosion or fire not intentionally set by the operator.
      iii. Property damage, including the value of the gas lost, estimated in excess of $5,000.
   b. Emergency transmission pipeline shutdown.
   c. News media inquiry.
   d. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%.
   e. Permanent or temporary discontinuance of gas service to a master meter system or when assisting with the isolation of any portion of a gas master meter system.
   f. Emergency shutdown of a LNG process or storage facility.
2. Operators of an intrastate pipeline transporting hazardous liquid will notify by telephone the Office of Pipeline Safety ~~Section~~ upon discovery of the occurrence of any of the following:
   a. Death or personal injury requiring hospitalization.
   b. An explosion or fire not intentionally set by the operator.
   c. Property damage estimated in excess of $5,000.
   d. Pollution of any land, stream, river, lake, reservoir, or other body of water that violates applicable environmental quality, water quality standards, causes a discoloration of the surface of the water or adjoining shoreline, or deposits sludge or emulsion beneath the surface of the water or upon adjoining shorelines.
   e. News media inquiry.
3. Telephone incident reports will include the following information:
   a. Name of the pipeline system operator,
   b. Name of the reporting party,
   c. Job title of the reporting party,
   d. The reporting party's telephone number,
   e. Location of the incident,
   f. Time of the incident, and
   g. Fatalities and injuries, if any.

C. Require written incident report:

1. Operators of an intrastate pipeline transporting natural gas, LNG or other gases ~~gas pipeline system~~ will file a written incident report when an incident occurs involving a natural gas or other gas pipeline that results in any of the following:
   a. An explosion or fire not intentionally set by the operator.

b. Injury to a person that results in 1 or more of the following:
   i. Death.
   ii. Loss of consciousness.
   iii. Need for medical treatment requiring hospitalization.
c. Property damage, including the value of the lost gas, estimated in excess of $5,000.
d. Emergency transmission pipeline shutdown.
e. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%.
f. Emergency shutdown of a LNG process or storage facility.

2. Written incident reports concerning natural gas or other gas pipeline systems will be in the following form:
   a. RSPA F7100.1 - Distribution System: Incident Report, incorporated by reference and on file with the Office of the Secretary of State.
   b. RSPA F7100.2 - Transmission and Gathering System: Incident Report, incorporated by reference and on file with the Office of the Secretary of State.
3. Operators of an intrastate pipeline transporting hazardous liquid will make a written incident report on DOT Form 7000-1, incorporated by reference and on file with the Office of the Secretary of State, when there is a release of hazardous liquid which results in any of the following:
   a. An explosion or fire not intentionally set by the operator.
   b. Injury to a person that results in 1 or more of the following:
      i. Death.
      ii. Loss of consciousness.
      iii. Inability to leave the scene of the incident unassisted.
      iv. Need for medical treatment.
      v. Disability which interferes with a person's normal daily activities beyond the date of the incident.
   c. The loss of 50 or more barrels of hazardous liquid.
   d. The escape of more than 5 barrels ~~each day,~~ of highly volatile liquids~~,~~ into the atmosphere.
   e. Property damage estimated in excess of $5,000.
   f. News media inquiry.
4. Written incident reports as required in this Section will be filed~~, in duplicate,~~ with the Office of Pipeline Safety ~~Section~~, within the time specified below:
   a. Natural gas, LNG or other gas - within 20 days after detection.
   b. Hazardous liquids - within 15 days after detection.
5. The Operators shall also file ~~Commission will forward~~ a copy of all DOT required written incident reports with ~~within 10 days of receipt to~~ the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.
6. Operators of a natural gas or other gas system will request a clearance from the Office of Pipeline Safety prior to turning on or reinstating service to a master meter operator.

D. Investigations by the Commission:
1. The Office of Pipeline Safety ~~Section~~ will investigate the cause of incidents resulting in death or serious injury.
2. Pursuant to an investigation under this rule, the Commission, or an authorized agent thereof, may:
   a. Inspect all plant and facilities of a pipeline system.
   b. Inspect all other property, books, papers, business methods, and affairs of a pipeline system.
   c. Make inquiries and interview persons having knowledge of facts surrounding an incident.
   d. Attend, as an observer, hearings and formal investigations concerning pipeline system operators.
   e. Schedule and conduct a public hearing into an incident.
3. The Commission may issue subpoenas to compel the production of records and the taking of testimony.
4. Incidents not reported ~~reports~~ in accordance with the provisions of this rule will be investigated by the Office of Pipeline Safety ~~Section~~.
5. Incidents referred to in incomplete or inaccurate reports will be investigated by the Office of Pipeline Safety ~~Section~~.
6. Late filed incident reports will be accompanied by a letter of explanation. Incidents referred to in late filed reports may be investigated by the Office of Pipeline Safety ~~Section~~.
~~7. Operators of an intrastate pipeline transporting natural gas and other gas pipeline system will grade and report all detected leakage by the following standard -- ASME Guide for Gas Transmission and Distribution Pipeline Systems Material, Appendix G-11-1983 (1983 Revision), Leak Classification and Action Criteria, incorporated by reference and on file with the Office of the Secretary of State.~~

R14-5-204. Annual Reports

A. Except for operators of an intrastate pipeline transporting LNG or hazardous liquid, all other intrastate pipeline operators will file ~~in duplicate,~~ with the Office of Pipeline Safety ~~Section~~, not later than March 15, for the preceding calendar year, the following appropriate reports:

1. RSPA F7100.1-1 (November 1985 Edition and no future editions) - "Annual Report for Calendar Year 19___, Gas Distribution System" and "Instructions for Completing RSPA Form F7100.1-1, Annual Report for Calendar Year 19___, Gas Distribution System", incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street, S.W., Washington, D.C. 20590.
2. RSPA F7100.2-1 (November 1985 Edition and no future editions) - "Annual Report for Calendar Year 19___, Gas Transmission and Gathering Systems" and "Instructions for Completing Form RSPA F7100.2-1, Annual Report for Calendar Year 19___, Gas Transmission and Gathering Systems", incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street, S.W., Washington, D.C. 20590.

B. The operator will also file ~~Commission will forward~~ a copy of all required annual reports by March 15 to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590.

R14-5-205. Master Meter System Operators

A. Applicability. This rule applies to the construction, reconstruction, repair, emergency procedures, operation and maintenance of all master meter systems as a condition of receiving service from public service corporations. Noncompliance with this rule by operators of a master meter system shall constitute grounds for termination of service by the public service corporation when informed in writing by the Office of Pipeline Safety ~~Section~~. In case of an emergency, the Office of Pipeline Safety ~~Section~~ may give the public service corporation oral instructions to terminate service, with written confirmation to be furnished within 24 hours.

B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 191 and 192, revised as of November 4, 1998, ~~February 25, 1997~~ (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

C. The above mentioned incorporated parts of 49 CFR, except Part 191, are revised as follows:

1. Substitute "Commission" where "Office of Pipeline Safety, Research and Special Programs Administration", or "Office of Pipeline Safety" (OPS) appear.
2. Substitute "Office of Pipeline Safety ~~Section~~, Arizona Corporation Commission, at its office in Phoenix, Arizona" where addresses for the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation or Office of Chief Counsel appear.

D. Operators of a master meter will establish an Operation and Maintenance Plan (O & M) including an emergency plan. The plans must be maintained at the master meter location.

E. Operators of a master meter system will not construct any part of a natural gas or other gas system under a building or permit a building to be placed over a pipeline. Within 180 days of discovery of a building being located over a pipeline, the operator shall remove the building from over the pipeline, relocate the pipeline or discontinue the service to the pipeline located under the building.

F. Operators of a master meter system will not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in their systems.

G. Operators of a master meter system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, August 14, 1995, (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

H. Operators of a master meter system that construct a pipeline or any portion thereof using plastic pipe will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe. Tracer wire may be taped, or attached in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.

I. Operators of a master meter system that construct an underground pipeline using plastic pipe, will bury the installed pipe with a minimum of 6 inches of sandy type soil for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety ~~Section~~.

J. Operators of a master meter system that construct an underground pipeline using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe shall be marked CD or CE as required by ASTM D2513-95c ~~90c~~ (1995c ~~1990c~~ Edition and no future editions), incorporated by reference, on file

with the Office of the Secretary of State and copies available from ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187, for areas where the service temperature is above 100°F.

K. Operators of a master meter gas system shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104.

L.~~K.~~ All repair work performed on existing master meter systems will comply with the provisions of this Article.

M.~~L.~~ Operators of a master meter system will not construct any part of a natural gas or other gas system closer than 8 inches to any other underground structure.

N.~~M.~~ Operators of a master meter system will file a Notice of Construction 30 days prior to commencement of the construction of any pipeline. The Notice will contain the following information:

1. The dates of construction,
2. The size and type of pipe to be used,
3. The location of construction, and
4. The Maximum Allowable Operating Pressure (MAOP).

O.~~N.~~ Operators of a master meter system will perform leakage surveys at intervals not exceeding 15 months but at least once each calendar year and will survey and grade all detected leakage by the following guide ~~standard~~ -- ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 (1983 Revision), except 4.4(c), ~~and no future amendments)~~, ~~Leak Classification and Action Criteria,~~ incorporated by reference, on file with the Office of the Secretary of State, and copies available from ASME, United Engineering Center, 345 East 47th Street, New York, New York 10017. ("Should" as referenced in the guide will be interpreted to mean "shall".) Leak detection procedures shall be approved by the Office of Pipeline Safety ~~Section~~.

P.~~O.~~ Operators of a master meter system will file an annual report with the Commission on Commission Form 1-90/15M (1990 Edition and no future editions), "Annual Report for Calendar Year 19___, Small Operators of Gas Distribution System," incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Arizona Corporation Commission, Office of Pipeline Safety ~~Group~~, 1200 West Washington, Phoenix, Arizona 85007. This report will be filed with the Office of Pipeline Safety ~~Section~~ not later than April 15 for the preceding calendar year.

Q.~~P.~~ The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public safety.

R.~~Q.~~ To ensure compliance with provisions of this rule, the Commission or an authorized representative thereof, may enter the premises of an operator of a master meter system to inspect and investigate the property, books, papers, business methods, and affairs that pertain to the operation of the master meter system.

S.~~R.~~ All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.

NOTICE OF EXEMPT RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 17. DEPARTMENT OF ENVIRONMENTAL QUALITY POLLUTION PREVENTION

ARTICLE 1. GENERAL

PREAMBLE

1. Sections Affected — **Rulemaking Action**

Chapter 17	New Chapter
Article 1	New Article
R18-17-101	Reserved
R18-17-102	New Section

2. The specific authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):

Authorizing Statutes: A.R.S. § 49-104

Implementing Statutes: A.R.S. § 49-968

3. The effective date of the rules:

September 17, 1999

4. A list of all previous notices appearing in the Arizona Administrative Register.

Notice of Rulemaking Docket Opening: 5 A.A.R. 1235, April 30, 1999.

Notice of Rulemaking Docket Opening: 5 A.A.R. 3619, October 1, 1999.

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

Name: Deborah K. Blacik or Martha L. Seaman

Address: Arizona Department of Environmental Quality
Rule Development Section, M0836A-829
3033 North Central Avenue
Phoenix, AZ 85012

Telephone: (602) 207-2223, (800) 234-5677, Ext. 2223 (AZ only)

Fax: (602) 207-2251

TTD Number: (602) 207-4829

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The purpose of this rulemaking is to identify the toxic substances list that facilities are required to use in completing the annual toxic data report required under A.R.S. § 49-962. A.R.S. § 49-968 requires the Director to adopt by rule any substance the EPA established as a toxic substance under the federal pollution prevention act of 1990 (42 United States Code § 13102(3)). This rulemaking incorporates the 1998 toxic substance list adopted by the EPA. Since the EPA adopts a new list every year, this rule will need to be amended annually.

The Arizona Department of Environmental Quality (ADEQ) expects the probable impact of this rule to be minimal because facilities are currently required under federal law to submit "Form R" to EPA which contains this toxic substances list. Many facilities have voluntarily submitted this toxic data report to ADEQ on an annual basis.

A.R.S. § 49-968 provides that this rulemaking is exempt from the requirements of the Administrative Procedures Act except for public notice requirements.

7. Reference to any study that the agency proposes to rely on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material.

None.

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

Not applicable.

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

A. Identification of Exempt Rulemaking

This rulemaking will be codified in Chapter 17. Pollution Prevention. Article 1. General (R18-17-102).

B. Expected Impacts

State law requires the Arizona Department of Environmental Quality (ADEQ) to adopt any substance established by EPA under the federal Pollution Prevention Act of 1990 (42 U.S.C. § 13102(3)). Also, state law requires ADEQ, when adding or deleting a substance to the list, to use the same criteria described in the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. § 11023(d)).

ADEQ expects this rulemaking to have minimal to no economic impact upon stakeholders. Facilities currently are required by federal law to complete an annual toxic chemical release report (Form R) and submit it to the Environmental Protection Agency (EPA). Many facilities in Arizona voluntarily have submitted this report to ADEQ. Thus, a preliminary review indicates a minor impact upon facilities and ADEQ with no impact on consumers or the general public.

C. Small Businesses

While ADEQ expects that some small businesses may be impacted, these small businesses are required to submit Form R which contains the toxic substances list to EPA. Thus, this rule imposes only minimal impacts to these small businesses.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Not applicable.

11. A summary of the principal comments and the agency response to them:

The agency received no comments regarding this rule.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

13. Incorporations by reference and their location in the rules:

Table II. entitled "SECTION 313 TOXIC CHEMICAL LIST FOR REPORTING YEAR 1998" as found in "Toxic Chemical Release Inventory Reporting Forms and Instructions", adopted by the Environmental Protection Agency as of February 1999 is incorporated by reference in R18-17-102.

14. Was this rule previously adopted as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 17. DEPARTMENT OF ENVIRONMENTAL QUALITY POLLUTION PREVENTION

ARTICLE 1. GENERAL

Sections

ARTICLE 1. GENERAL

R18-17-101. Reserved

R18-17-102. Toxic Substances List

Under A.R.S. § 49-968 the Director adopts the substances listed in Table II entitled "SECTION 313 TOXIC CHEMICAL LIST FOR REPORTING YEAR 1998". Table II entitled "SECTION 313 TOXIC CHEMICAL LIST FOR REPORTING YEAR 1998" as found in "Toxic Chemical Release Inventory Reporting Forms and Instructions", adopted by the Environmental Protection Agency as of February 1999, and no future additions or amendments, is incorporated by reference.