

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 1. DEPARTMENT OF HEALTH SERVICES ADMINISTRATION

PREAMBLE

1. Sections Affected

Article 5
R9-1-501
R9-1-502
R9-1-503
R9-1-504
R9-1-505
R9-1-506

Rulemaking Action

New Article
New Section
New Section
New Section
New Section
New Section
New Section

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

Authorizing statutes: A.R.S. §§ 36-136(A)(7) and 36-136(F)

Implementing statutes: A.R.S. §§ 36-104(16), 36-2172(B) and 36-2907.06(D)

3. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 10 A.A.R. 2197, May 28, 2004

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

Name: Patricia Tarango, Office Chief
Address: Department of Health Services
Office of Health Systems Development
1740 W. Adams, Room 410
Phoenix, AZ 85007
Telephone: (602) 542-1219
Fax: (602) 542-2011
E-mail: tarangp@hs.state.az.us
Or
Name: Kathleen Phillips, Rules Administrator
Department of Health Services
Office of Administrative Rules
1740 W. Adams, Room 202
Phoenix, AZ 85007
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: phillik@hs.state.az.us

5. An explanation of the rules, including the agency's reasons for initiating the rules:

The Department of Health Services (Department) placed the existing sliding fee schedule Article, 9 A.A.C. 2, Article 1, in the Chapter labeled "Tobacco Tax-funded Programs" because sliding fee schedules applied to certain programs funded under former A.R.S. § 36-2921, such as the A.R.S. § 36-2907.06 primary care program Part B. Laws 2003, Chapter 265, § 30, retroactively effective to July 1, 2003, repealed all versions of A.R.S. § 36-2921, which allocated tobacco tax funds, including allocations to Department programs. The state's general fund currently funds these programs.

Other Department programs, such as the primary care provider loan repayment program under A.R.S. § 36-2172 and 42 CFR Part 62¹ and the J-1 visa waiver program under A.R.S. § 36-104(16), also need to reference the sliding fee schedule rules. Therefore, the Department determined to make updated sliding fee schedule rules and to place them in 9 A.A.C. 1, Administration, as a new Article 5, Sliding Fee Schedules. The new Article will contain R9-1-501, Definitions; R9-1-502, Family Member Determination; R9-1-503, Family Income Determination; R9-1-504, Sliding Fee Schedule Submission and Contents; R9-1-505, Sliding Fee Schedule Approval Time-frames, and R9-1-506, Fees Payable by Uninsured Individuals Under a Sliding Fee Schedule.

In this rulemaking the Department proposes to provide stakeholders and the public with clear, concise, and understandable rules for sliding fee schedules used by health care providers. In a separate rulemaking the Department is repealing A.A.C. Title 9, Chapter 2, Tobacco Tax-funded Programs, including Article 1, Sliding-fee Schedule; and R9-2-101, Approval of Sliding-fee Schedule.

[¹ 42 CFR 62.55(c)(2) provides that a health professional participating in a state loan repayment program that receives federal grants authorized by 42 USC 254q-1 shall "charge for his or her professional services at the usual and customary rate prevailing in the area in which such services are provided, except that if a person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee."]

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

The Department did not review any study for this rulemaking.

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

Not applicable

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

In fiscal year 2003, more than 30,000 uninsured individuals were determined eligible for the Department's primary care program Part B under A.R.S. §§ 36-2907.06, bringing the total number of individuals eligible for that program to more than 60,000. Qualifying community health centers contracted under A.R.S. § 36-2907.06 had a total of almost 50,000 visits billable to primary care program funds.

The A.R.S. § 36-2907.06 primary care program Part B and other Department programs that call for a sliding fee schedule increase access to health care resources for the medically underserved. These programs increase the health care system's capacity to deliver services. Sliding fee schedules establish and limit the amount charged to uninsured individuals at or below 200 percent of the current federal poverty guidelines who receive services under the primary care program or from a provider serving the underserved through the primary care provider loan repayment program or the J-1 visa waiver program. In the future, providers might be subject to a sliding fee schedule requirement under other programs.

For purposes of this preliminary economic impact summary, "minimal" means under \$1000, "moderate" means \$1000 to \$10,000, and "substantial" means more than \$10,000.

Uninsured individuals receiving medical services from providers subject to a sliding fee schedule requirement

Uninsured individuals receiving services covered by a sliding fee schedule benefit from no fees or reduced fees, according to the discounts in the sliding fee schedule. The cost of any fee assessed to these individuals is offset by improved health status and quality of life for them and their families from the increased availability of health care. Increased availability of health care allows earlier diagnosis and treatment of medical conditions, decreasing the need for more costly treatments. Individuals who are responsible for a fee based on a sliding fee schedule may place greater value on the services they receive. Additionally, individuals who share in paying for the services they receive may have enhanced self-esteem.

Providers subject to a sliding fee schedule requirement

Under the proposed sliding fee schedule rules, health care providers required to use a sliding fee schedule include facilities ranging from solo medical practices to non-profit organizations and county health departments. Under the proposed sliding fee schedule rules, these health care providers will incur minimal to moderate staff-related costs for:

- Reviewing the annual update of the U.S. Department of Health and Human Services' Poverty Guidelines published in the Federal Register,²

Notices of Proposed Rulemaking

- Preparing annually a sliding fee schedule based on the updated Poverty Guidelines,
- Submitting the sliding fee schedule to the Department.

Fees paid by individuals according to a sliding fee schedule provide an important source of revenue for facilities and providers. The revenue from individuals' fees may enable facilities and providers to expand services.

The Department

The Department annually will incur minimal to moderate costs to review sliding fee schedules submitted by facilities and providers. These costs result from the requirements in state statutes, state administrative rules, or federal regulations for sliding fee schedules.

The general public

Arizonans in general benefit from facilities and providers that use a sliding fee schedule. Increased access to health care by the underserved allows for earlier and less expensive treatment and helps to control the total bill for health care in the state.

[² The 2004 annual update is published at 69 FR 7336, February 13, 2004, and is available online at <http://aspe.os.dhhs.gov/poverty/04fedreg.htm>.]

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Patricia Tarango, Office Chief
 Address: Department of Health Services
 Office of Health Systems Development
 1740 W. Adams, Room 410
 Phoenix, AZ 85007

Telephone: (602) 542-1219
 Fax: (602) 542-2011
 E-mail: tarangp@hs.state.az.us

Or

Name: Kathleen Phillips, Rules Administrator
 Department of Health Services
 Office of Administrative Rules
 1740 W. Adams Street, Room 202
 Phoenix, AZ 85007

Telephone: (602) 542-1264
 Fax: (602) 364-1150
 E-mail: phillik@hs.state.az.us

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

VIDEOCONFERENCE ORAL PROCEEDING		
LOCATION	DATE	TIME
Department of Health Services 150 N. 18th Avenue, Room 345A Phoenix, Arizona 85007	November 2, 2004	10:00 a.m.
Community Partnerships of Southern Arizona 4575 E. Broadway Tucson, Arizona 85711	November 2, 2004	10:00 a.m.
Northern Arizona Regional Behavioral Health Authority 1300 S. Yale Street, Mohave Room Flagstaff, Arizona 86001	November 2, 2004	10:00 a.m.

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YUMA ORAL PROCEEDING		
LOCATION	DATE	TIME
Yuma County Department of Public Health 2200 W. 28th Street, Auditorium Yuma, AZ 85364	November 9, 2004	1:00 p.m.

CLOSE OF RECORD
5:00 p.m., November 9, 2004

A person may submit written comments on the proposed rules until the close of record to the individuals listed in items #4 and #9.

Persons with a disability may request a reasonable accommodation by contacting Lynn Golder at gold-erl@hs.state.az.us or (602) 364-3958. Requests should be made as early as possible to allow sufficient time to arrange for the accommodation.

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 1. DEPARTMENT OF HEALTH SERVICES
ADMINISTRATION**

ARTICLE 5. SLIDING FEE SCHEDULES

Section

- R9-1-501. Definitions
- R9-1-502. Family Member Determination
- R9-1-503. Family Income Determination
- R9-1-504. Sliding Fee Schedule Submission and Contents
- R9-1-505. Sliding Fee Schedule Approval Time-frames
- R9-1-506. Fees Payable by Uninsured Individuals Under a Sliding Fee Schedule

ARTICLE 5. SLIDING FEE SCHEDULES

R9-1-501. Definitions

In this Article, unless otherwise specified:

1. “AHCCCS” means the Arizona Health Care Cost Containment System.
2. “Business day” means the same as in A.R.S. § 10-140.
3. “Calendar year” means January 1 through December 31.
4. “Child” means an individual under age 19.
5. “Consideration” means valuable compensation for something received or to be received.
6. “Costs of producing rental income” means payments made by a rental-income recipient that are attributable to the premises or the portion of the premises generating the income, including payments for:
 - a. Property taxes.
 - b. Insurance premiums.
 - c. Mortgage principal and interest.
 - d. Utilities, and
 - e. Maintenance and repair.
7. “Costs of producing self-employment income” means payments made by a self-employment-income recipient that

- are attributable to generating the income, including payments for:
- a. Equipment, machinery, and real estate;
 - b. Labor;
 - c. Inventory;
 - d. Raw materials;
 - e. Insurance premiums;
 - f. Rent; and
 - g. Utilities.
8. “Current federal poverty guidelines” means the most recent annual update of the U.S. Department of Health and Human Services’ Poverty Guidelines published in the Federal Register.
 9. “Deduction” means an amount subtracted from a payment, before an individual receives the payment, for:
 - a. Federal income tax.
 - b. Social Security tax.
 - c. Medicare tax.
 - d. State income tax.
 - e. Insurance other than OASDI.
 - f. Pension, or
 - g. Other amounts required by law or authorized by the individual to be subtracted.
 10. “Department” means the Department of Health Services.
 11. “Discount” means a percentage reduction established in a sliding fee schedule.
 12. “Earned income” means work-related payments received by an individual, including:
 - a. Wages.
 - b. Commissions and fees.
 - c. Salary.
 - d. Profit from self-employment.
 - e. Profit from rent received from an individual or entity, and
 - f. Any other work-related monetary payments received by an individual.
 13. “Family income” means the amount determined according to R9-1-503(B).
 14. “Family member” means an individual, determined according to R9-1-502, whose income is included in family income.
 15. “Fetus” means the same as in A.R.S. § 36-2152.
 16. “Gift” means money, real property, personal property, a service, or anything of value other than unearned income for which the recipient does not provide consideration of equal or greater value.
 17. “Income” means combined earned and unearned income.
 18. “Interrupted income” means income that stops for at least 30 continuous days during the current calendar year and then resumes.
 19. “KidsCare” means the children’s health insurance program, a federally funded program administered by AHCCCS under A.R.S. Title 36, Chapter 29, Article 4.
 20. “Lowest contracted charge” means the smallest reimbursement a provider has agreed to accept for a medical service:
 - a. Determined by the provider’s review of all the contracts between the provider and third party payors, defined in A.R.S. § 36-125.07(C), that:
 - i. Cover the medical service, and
 - ii. Are in effect at the time the medical service is provided to an uninsured individual; and
 - b. Subject to limitations of federal or state laws, rules, or regulations.
 21. “Medical services” means the same as in A.R.S. § 36-401.
 22. “Medicare tax” means the amount subtracted from a payment for the health care insurance program for the aged and disabled under Title XVIII of the Social Security Act, 42 USC 1395 et seq.
 23. “New income” means income that begins at least 30 days after the start of the current calendar year.
 24. “OASDI” means old age, survivors, and disability insurance.
 25. “Profit” means the remainder after subtracting:
 - a. The costs of producing rental income from the rent received from an individual or entity, or
 - b. The costs of producing self-employment income from the self-employment income.
 26. “Provider” means an individual or entity that:
 - a. Provides medical services;
 - b. Is required to use a sliding fee schedule under A.R.S. §§ 36-104(16), 36-2907.06, or 36-2172; and
 - c. Includes:
 - i. A dentist licensed under A.R.S. Title 32, Chapter 11;
 - ii. A physician licensed under A.R.S. Title 32, Chapter 13 or Chapter 17;
 - iii. A registered nurse practitioner defined in A.R.S. § 32-1601 and licensed under A.R.S. Title 32, Chapter 15;

- iv. A physician assistant licensed under A.R.S. Title 32, Chapter 25 and practicing according to A.R.S. § 32-2531;
- v. A health care institution licensed under A.R.S. Title 36, Chapter 4; or
- vi. An office or facility that is exempt from licensing under A.R.S. § 36-402(3).
- 27. “Self-employment” means earning income from one’s own business, trade, or profession rather than receiving a salary or wages from an employer.
- 28. “Sliding fee schedule” means a document containing the information required in R9-1-504(B).
- 29. “Social Security tax” means the amount subtracted from a payment for OASDI under Title II of the Social Security Act, 42 USC 401 et seq.
- 30. “Support payment” means an amount, received at regular intervals by an individual, for food, shelter, furniture, clothing, and medical expenses.
- 31. “Terminated income” means income received during the current calendar year that stops and will not resume.
- 32. “Training stipend” means an amount, received at regular intervals by an individual, during a course or program for the development of the individual’s skills.
- 33. “Unearned income” means payments received by an individual that are not gifts and are not work-related, including:
 - a. Unemployment insurance;
 - b. Workers’ compensation;
 - c. Disability payments;
 - d. Social Security payments;
 - e. Public assistance payments;
 - f. Periodic insurance or annuity payments;
 - g. Retirement or pension payments;
 - h. Strike benefits from union funds;
 - i. Training stipends;
 - j. Child support payments;
 - k. Alimony payments;
 - l. Military family allotments or other support payments from a relative or other individual not residing with the recipient;
 - m. Investment income;
 - n. Royalty payments;
 - o. Periodic payments from estates or trusts; and
 - p. Any other monetary payments received by an individual that are not gifts, are not work-related, and are not capital gains, lump-sum inheritance or insurance payments, or payments made to compensate for personal injury.
- 34. “Uninsured individual” means an individual who does not have creditable coverage defined in A.R.S. § 20-2301 or KidsCare.
- 35. “Variable income” means income in an amount that changes from payment to payment.

R9-1-502. Family Member Determination

A provider shall determine the family members of an uninsured individual seeking medical services.

- 1. A family with one member consists of:
 - a. A non-pregnant child who does not live with:
 - i. A parent;
 - ii. A spouse;
 - iii. An individual with whom the child has a common biological or adopted child;
 - iv. A biological or adopted child; or
 - v. A biological or adopted child of an individual with whom the child has a common biological or adopted child; or
 - b. A non-pregnant individual over age 19 who does not live with:
 - i. A spouse;
 - ii. An individual with whom the individual over age 19 has a common biological or adopted child;
 - iii. A biological or adopted child; or
 - iv. A biological or adopted child of an individual with whom the individual over age 19 has a common biological or adopted child.
- 2. A family with two or more members consists of:
 - a. An individual and:
 - i. The biological or adopted children who live with the individual; and
 - ii. If the individual or a child under subsection (2)(a)(i) is pregnant, the fetus;
 - b. Two individuals, who have a common biological or adopted child and who live together, and:
 - i. The common biological or adopted children living with the two individuals.

- ii. The biological or adopted children of either individual living with the two individuals; and
- iii. If an individual or a child under subsection (2)(b)(i) or subsection (2)(b)(ii) is pregnant, the fetus; or
- c. Two individuals, who are married to each other, who live together, and who do not have a common biological or adopted child, and
 - i. The biological or adopted children of either individual living with the two individuals; and
 - ii. If an individual or a child under subsection (2)(c)(i) is pregnant, the fetus.

R9-1-503. Family Income Determination

- A. An uninsured individual with a family income equal to or less than 200 percent of the current federal poverty guidelines shall receive a discount on medical services from a provider.
- B. A provider shall determine an uninsured individual's family income by:
 - 1. Multiplying a weekly payment received by a family member, before deductions, by 52;
 - 2. Multiplying a biweekly payment received by a family member, before deductions, by 26;
 - 3. Multiplying a monthly payment received by a family member, before deductions, by 12;
 - 4. For variable income received by a family member:
 - a. Adding at least four payments, before deductions;
 - b. Dividing the sum obtained in subsection (B)(4)(a) by the number of payments included; and
 - c. Multiplying the quotient obtained in subsection (B)(4)(b) by 52, 26, or 12 as appropriate;
 - 5. Counting the actual payments received by a family member, before deductions, for:
 - a. Interrupted income,
 - b. New income, and
 - c. Terminated income; and
 - 6. Adding the amounts calculated under subsections (B)(1) through (B)(5).

R9-1-504. Sliding Fee Schedule Submission and Contents

- A. By April 1 of each year, a provider shall submit to the Department the provider's sliding fee schedule.
- B. The sliding fee schedule shall contain:
 - 1. A statement that the sliding fee schedule applies to charges for all medical services provided to uninsured individuals by or through the provider;
 - 2. The current federal poverty guidelines;
 - 3. A 100 percent discount for an uninsured individual with a family income equal to or less than 100 percent of the current federal poverty guidelines; and
 - 4. For uninsured individuals with family incomes more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines, at least four discount levels that decrease as family income increases.
- C. The Department shall approve a sliding fee schedule that meets the requirements of subsections (A) and (B).

R9-1-505. Sliding Fee Schedule Approval Time-frames

- A. The overall time-frame described in A.R.S. § 41-1072(2) for a request for sliding fee schedule approval is 32 days.
 - 1. A provider and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
 - 2. An extension of the substantive review time-frame and the overall time-frame shall not exceed eight days.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for a request for sliding fee schedule approval is 11 days, beginning on the day the Department receives the request.
 - 1. Except as provided in subsections (B)(3) and (B)(4), the Department shall mail to a provider a written notice of administrative completeness when the provider's request for sliding fee schedule approval is complete.
 - 2. If a request for sliding fee schedule approval is incomplete, the Department shall mail to the provider a written notice of incompleteness that:
 - a. Lists the missing documents or incomplete information, and
 - b. Suspends the administrative completeness review time-frame and the overall time-frame from the postmark date of the notice of incompleteness:
 - i. Until the date the Department receives a complete request for sliding fee schedule approval; or
 - ii. For 60 days, whichever comes first.
 - 3. If the Department does not receive all the additional documents or information required under subsection (B)(1) within 60 days after the postmark date of the notice of incompleteness, the Department deems the request for sliding fee schedule approval withdrawn.
 - 4. If the Department approves a sliding fee schedule during the administrative completeness review time-frame, the Department does not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) for a request for sliding fee schedule approval is 21 days, beginning on the postmark date of the Department's notice of administrative completeness under subsection (B)(1).

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1. The Department shall mail to a provider a written notice of sliding fee schedule approval or disapproval according to A.R.S. § 41-1076 by the last day of the substantive review time-frame and the overall time-frame.
2. If the Department issues to a provider a written request for additional information according to A.R.S. § 41-1075(A), the request for additional information suspends the substantive review time-frame and the overall time-frame from the postmark date of the request for additional information:
 - a. Until the date the Department receives all the information requested; or
 - b. For 60 days, whichever comes first.
3. If the Department does not receive all the information requested under subsection (C)(2) within 60 days after the postmark date of the request for additional information, the Department shall disapprove the sliding fee schedule.
- D.** If a time-frame's last day falls on a Saturday, a Sunday, or a state service holiday listed in A.A.C. R2-5-402, the Department considers the next business day the time-frame's last day.

R9-1-506. Fees Payable by Uninsured Individuals Under a Sliding Fee Schedule

- A.** Under a sliding fee schedule, an uninsured individual's fee for medical services shall not exceed the amount calculated by applying the sliding fee schedule's discount for the individual's family income:
 1. To the balance remaining on the lowest contracted charge for each medical service provided; and
 2. That is not subject to payment under A.R.S. §§ 36-2907.05 or 36-2907.06.
- B.** A provider may:
 1. Establish an administrative fee that:
 - a. Does not exceed \$25, and
 - b. Applies to uninsured individuals with a family income more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines; and
 2. Charge a fee established under subsection (B)(1) only in lieu of an uninsured individual's fee calculated under subsection (A).

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 2. DEPARTMENT OF HEALTH SERVICES
TOBACCO TAX-FUNDED PROGRAMS**

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| Chapter 2 | Repeal |
| Article 1 | Repeal |
| R9-2-101 | Repeal |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 36-136(A)(7), and 36-136(F)
Implementing statutes: A.R.S. § 36-2907.06(D)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 2198, May 28, 2004
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**
- | | |
|------------|---|
| Name: | Patricia Tarango, Office Chief |
| Address: | Department of Health Services
Office of Health Systems Development
1740 W. Adams, Room 410
Phoenix, AZ 85007 |
| Telephone: | (602) 542-1219 |
| Fax: | (602) 542-2011 |
| E-mail: | tarangp@hs.state.az.us |
| | Or |
| Name: | Kathleen Phillips, Rules Administrator |

Notices of Proposed Rulemaking

Department of Health Services
Office of Administrative Rules
1740 W. Adams Street, Room 202
Phoenix, AZ 85007

Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: phillik@hs.state.az.us

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

The Department placed the existing sliding fee schedule Article, 9 A.A.C. 2, Article 1, in the Chapter labeled "Tobacco Tax-funded Programs" because sliding fee schedules applied to the A.R.S. § 36-2907.06 primary care program Part B, funded under former A.R.S. § 36-2921. Laws 2003, Chapter 265, § 30, retroactively effective to July 1, 2003, repealed all versions of A.R.S. § 36-2921, which allocated tobacco tax funds. The state's general fund currently funds the Department's primary care program Part B.

Other Department programs, such as the primary care provider loan repayment program under A.R.S. § 36-2172 and 42 CFR Part 62¹ and the J-1 visa waiver program under A.R.S. § 36-104(16), also need to reference the sliding fee schedule rules. Therefore, the Department determined to repeal 9 A.A.C. 2, including Article 1, Sliding-fee Schedule; and R9-2-101, Approval of Sliding-fee Schedule. In a separate rulemaking the Department is making new sliding fee schedule rules in 9 A.A.C. 1, Article 5.

[¹ 42 CFR 62.55(c)(2) provides that a health professional participating in a state loan repayment program that receives federal grants authorized by 42 USC 254q-1 shall "charge for his or her professional services at the usual and customary rate prevailing in the area in which such services are provided, except that if a person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee."]

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

None

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

The Department did not review any study for this rulemaking.

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

Under A.R.S. § 41-1055(D)(3) this rulemaking is exempt from the economic, small business, and consumer impact statement requirement. Repealing 9 A.A.C. 2 imposes no costs on stakeholders or the general public. The Department is making new sliding fee schedule rules at 9 A.A.C. 1, Article 5.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

None

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No oral proceeding is scheduled. Written comments will be accepted at the addresses listed in item #4 until the close of record 31 days after *Arizona Administrative Register* publication of this notice, unless a person requests an oral proceeding before the close-of-record date.

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

Not applicable

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

None

13. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

CHAPTER 2. DEPARTMENT OF HEALTH SERVICES
~~TOBACCO TAX FUNDED PROGRAMS REPEALED~~

~~ARTICLE 1. SLIDING FEE SCHEDULE REPEALED~~

Section

R9-2-101. Approval of sliding fee schedule ~~Repealed~~

~~ARTICLE 1. SLIDING FEE SCHEDULE REPEALED~~

~~R9-2-101. Approval of Sliding fee Schedule Repealed~~

- ~~A. For purposes of this Section, "sliding fee schedule" means a document that sets forth the relationship between an individual's income and family size and states the percentage of the charges for health care services provided pursuant to A.R.S. § 36-2907.06 for which the individual will be responsible.~~
- ~~B. At least 30 calendar days before implementation of the sliding fee schedule, a qualifying community health center shall submit an application for approval of the schedule to the Department of Health Services. Submission occurs at the time the Department receives a correctly completed application. The application shall contain:~~
- ~~1. The qualifying community health center's name and street address including city, state, and zip code;~~
 - ~~2. The qualifying community health center's telephone number; and~~
 - ~~3. The name of the qualifying community health center's administrator.~~
- ~~C. The Department of Health Services shall notify the qualifying community health center in writing of approval or disapproval within 20 calendar days of submission of application. A sliding fee schedule shall not be implemented without approval. If an application is disapproved, the Department shall set forth the reasons for the disapproval in the written notice. Within 15 calendar days of receiving a written disapproval, a qualifying community health center may file a written request for a hearing with the Department to appeal the disapproval.~~
- ~~D. The sliding fee schedule shall cover income levels from 0 to at least 200% of the federal poverty level.~~
- ~~E. A qualifying community health center shall not deny health care services to an individual eligible for health care services pursuant to A.R.S. § 36-2907.06 because the individual is unable to pay for the health care services.~~
- ~~F. A qualifying community health center shall apply a 100% discount for an eligible individual with an income at or below 100% of the federal poverty level. A qualifying community health center may establish a minimum fee for administrative processing costs for all eligible individuals without regard to income level. A qualifying community health center shall charge the greater of either the administrative fee or the amount of the charges for services for which an eligible individual is determined to be responsible according to the sliding fee schedule.~~
- ~~G. An individual covered by a sliding fee schedule shall not be responsible for an amount greater than the amount determined by applying the sliding fee schedule to the lowest contracted charge for each service received. The lowest contracted charge for a service is determined by reference to contracts covering that service, in effect at the time that the service is rendered, between the qualifying community health center and any payor, subject to limitations of federal and state laws and regulations.~~
- ~~H. The qualifying community health center shall post a notice at or near the main entrance and in each waiting room. The notice shall be in both English and Spanish and shall contain the following information:~~
- ~~1. The qualifying community health center provides primary care services to uninsured Arizona residents with family incomes of 200% or less of the federal poverty guidelines and who meet the eligibility requirements of the Tobacco Tax Primary Care Program, A.R.S. § 36-2907.06.~~
 - ~~2. The name of the individual or unit within the qualifying community health center that interested persons may contact to have an eligibility determination interview for the Tobacco Tax Primary Care program.~~
 - ~~3. The qualifying community health center's use of an Arizona Department of Health Services approved sliding fee schedule to determine the payment responsibility or eligible persons.~~
 - ~~4. The name and phone number of the qualifying community health center's staff member responsible for receiving and hearing any complaints from eligible persons regarding their payment responsibility for Tobacco Tax Primary Care program services.~~
- ~~I. The qualifying community health center shall keep a log and file of all complaints dealing with payment responsibility under the sliding fee schedule. The log and file shall indicate the name and address of the eligible person, the nature of the complaint, the date the complaint was received, the date the decision was rendered, and the date the decision letter was sent to the eligible person. The qualifying community health center shall retain the log and file for 12 months after the decision letter is sent.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR POLLUTION CONTROL

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| Appendix 8 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 49-104(A)(10) and 49-425

Implementing statutes: A.R.S. §§ 49-404 and 49-406

- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 2945, July 23, 2004

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

Name: Kevin Force

Address: ADEQ, Air Quality Planning Section
1110 W. Washington St.
Phoenix, AZ 85007

Telephone: (602) 771-4480 (Any extension may be reached in-state by dialing (800) 234-5677, and asking for a specific number.)

Fax: (602) 771-2366

E-mail: force.kevin@ev.state.az.us

Or

Name: Bruce Friedl

Address: ADEQ, Air Quality Planning Section
1110 W. Washington St.
Phoenix, AZ 85007

Telephone: (602) 771-2259 (Any extension may be reached in-state by dialing (800) 234-5677, and asking for a specific number.)

Fax: (602) 771-2366

E-mail: friedl.bruce@ev.state.az.us

- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

Summary.

The Arizona Department of Environmental Quality (ADEQ) is proposing several technical and administrative changes to A.A.C. Title 18, Chapter 2, Appendix 8 to clarify procedures for calculating material balance for sulfur applicable to three copper smelters: one located in Hayden, Gila County; one located in Miami, Gila County; and one located in San Manuel, Pinal County.

Background.

The Hayden, Miami, and San Manuel areas were designated nonattainment for SO₂ in 1979 due to measured exceedences of the national ambient air quality standards for sulfur dioxide (SO₂). Because local copper smelters were determined to be the principal sources of SO₂ emissions in these areas, stack emission limits were adopted into Arizona rules in 1979 as a means of lowering SO₂ emissions from the smelters. As a result of installation of emission controls, violations of the SO₂ standards have not been measured in any of these areas since 1989. To meet Clean Air Act redesignation requirements and demonstrate continued attainment of the air quality standards, updated air quality impact analyses were performed for the three smelters during the period 2001-2002. These analyses, based on new limits for both stack and fugitive emissions, demonstrate future air quality protection and show that the smelters are not expected to cause or contribute to a violation of the air quality standards for SO₂. In 2002, in two separate rulemakings, the new SO₂ emission limits for all three smelters were finalized in R18-2-715(F), (G), and (H) along with

corresponding changes to compliance and monitoring procedures in R18-2-715.01. The revised rules were submitted to the U.S. Environmental Protection Agency (EPA) in June 2002 for review and approval as federally enforceable control measures in State Implementation Plan (SIP) revisions and redesignation to attainment requests for each of the SO₂ nonattainment areas.

The sulfur balance procedures in Appendix 8 were submitted to EPA for approval as a component of the SIP in 1998. The procedures are used to determine compliance with certain of the emission limits contained in R18-2-715 and to determine overall emissions as required under R18-2-715.01. On May 14, 2004, EPA proposed full approval of the revised smelter rules R18-2-715(F), (G), and (H), R18-2-715.01, and R18-2-715.02 (previously submitted). At the same time, EPA also proposed "limited approval/limited disapproval" of Appendix 8 (60 FR 26786; May 14, 2004). EPA requested several changes and clarifications to Appendix 8 to make it a fully approvable component of the SIP. State adoption and submittal to EPA of the current Appendix 8 revisions will complete the necessary steps for EPA to consider redesignating the Hayden, Miami, and San Manuel areas to attainment.

Explanation of proposed rule changes.

In addition to several minor clarifications, ADEQ has determined the following changes are appropriate. Sections A8.1.2.3.1 and A8.1.2.3.2 are being clarified to specify methods for determining the sulfur and copper content of sulfur-bearing material introduced into the smelting process by incorporating by reference the Barium Sulfate Gravimetric Method and Potassium Iodide Titration Method procedures contained in *Standard Methods of Chemical Analysis*, Sixth Edition, 1962. These methods are considered industry standard practice methods and are appropriate to the materials being analyzed.

Section A8.2.5.5 is being clarified to specify the method for determining the sulfur content of material at the casting stage of copper production by incorporating by reference the Barium Sulfate Gravimetric Method procedures contained in *Standard Methods of Chemical Analysis*, Sixth Edition, 1962. The method is considered an industry standard practice method and is appropriate to the materials being analyzed.

Because the sulfur balance procedures in Appendix 8 are included in the federally enforceable Arizona SIP, language is being added in sections A8.1.2, A8.2, and A8.4.1 to require EPA approval (in addition to ADEQ approval), through the permitting process, of any alternative method, process or procedure used to meet the sulfur balance requirements. All three smelters currently maintain operating permits that contain ADEQ and EPA approved sulfur balance procedures specific to each facility. The changes to the rule maintain the flexibility for sources to develop alternative sulfur balance protocols specific to their operations while providing a means for the necessary EPA approval.

In addition, references to applicable sections of R18-2-715.01 are being corrected in sections A8.3.1 and A8.3.2.

ADEQ determined that several of the changes requested in the May 14, 2004, proposed limited disapproval of Appendix 8, were not needed, and, after further discussion, EPA concurred. EPA had requested clarification of sampling procedures for sulfur-bearing materials introduced into the smelting process in Sections A8.1.2.1.1, A8.1.2.1.2, and A8.1.2.1.3 so that the sampling process is not biased. Bias can occur when there is a large variation in the size of the material being sampled. A subsequent examination confirmed that materials introduced into the smelting processes are primarily composed of a fine homogenous mixture. Per telephone conversations with Al Petersen of the EPA Region IX rulemaking office, EPA now agrees that the current methods in Appendix 8 are adequate to ensure an accurate accounting of the sulfur content of materials introduced into the smelting process.

EPA also noted in the May 14, 2004, proposal that the accuracy of a gravimetric method procedure is normally about $\pm 1\%$ not $\pm 50\%$. Of concern was Section A8.2.5.5., which addresses the analysis of sulfur content during casting operations. At the casting stage in copper production sulfur content is very low. For example, the sulfur content of anode samples taken over a one month period at one facility ranged from 4.0 ppm to 108.0 ppm with an average value of 24.5 ppm. ADEQ believes, with EPA concurrence, that because of the low sulfur content of the material being tested, an analysis of sulfur content to an accuracy of $\pm 1\%$ is not feasible. Therefore, no change is being made.

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

Not applicable

7. 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

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

Rule identification.

Arizona Administrative Code, Title 18, Chapter 2, Appendix 8, "Procedures for Utilizing the Sulfur Balance Method for Determining Sulfur Emissions." This rule clarifies procedures for calculating material balance for sulfur for determining sulfur emissions applicable to three smelters in Gila and Pinal Counties.

Entities directly impacted.

This is a source-specific rulemaking that pertains to three smelters located in Hayden and Miami in Gila County and San Manuel in Pinal County. The Hayden smelter is currently owned and operated by ASARCO Incorporated, the Miami smelter is currently owned and operated by Phelps Dodge Corporation, and the San Manuel smelter is currently owned and operated by BHP Copper Incorporated. These three facilities are all classified as major sources for sulfur dioxide, and all three areas are designated as nonattainment for sulfur dioxide.

The general public is expected to be positively impacted due to the improved air quality associated with implementation and enforcement of the rules. No other entities are expected to be directly impacted.

Probable costs and benefits associated with the revisions to Appendix 8.

The Arizona Department of Environmental Quality (ADEQ) does not anticipate that any of the rule changes will generate any type of economic impact to the regulated smelters, the public or ADEQ because the rule changes merely codify industry standard practice methods.

The current rule revisions are not expected to result in significant additional costs to the owners and operators of the smelters. No additional labor needs will be generated by the rule. Sections A1.2.3.1, A1.2.3.2, and A8.2.5.5 are being clarified to specify methods for determining the sulfur and copper content of sulfur-bearing material introduced into the smelting process and at the casting stage of copper production. The infrastructure for material sampling and testing technology necessary to meet the requirements of Appendix 8 are already in place at the smelting facilities, therefore, expenditures have already been incurred and are not attributed to the current rulemaking.

Sections A8.1.2, A8.2, and A8.4.1 are being changed to require U.S. Environmental Protection Agency (EPA) approval of any alternative method, process or procedure used to meet the sulfur balance requirements of Appendix 8. The requirements of Appendix 8 only apply to the three existing primary copper smelters in Arizona. All three of these facilities are required to obtain and maintain a Title V operating permit under Arizona rules that includes any sulfur balance requirements contained in Appendix 8. Because the Title V permits are required to be reviewed and approved by ADEQ and EPA, the process for EPA approval is already present. All three smelters currently maintain operating permits that contain ADEQ and EPA approved sulfur balance procedures specific to each facility. The procedures required as part of the sulfur balance methods in the respective Title V permits are consistent with the proposed rule revision. Consequently, ADEQ does not expect that a permit revision will be necessary as a result of these revisions to Appendix 8. Therefore, expenditures attributed to the permitting process have already been incurred and are not attributed to the current rulemaking. Future changes to a facility's sulfur balance protocol, however, may require approval through a revision to the Title V permit. Any costs associated with a change to a facility's sulfur balance protocol would be due to any needed technology upgrades, additional personnel, or expenditures attributed to the permit revision process.

Even though ADEQ expects no significant economic impact, any costs associated with this rulemaking are expected to be less than the potential benefits expected to accrue to the general public. In all cases, the local citizens may continue to benefit because of improved air quality due to implementation of the rules.

Impact on Small Business.

A.R.S. § 41-1055(B)(5) requires agencies to state the probable impact of a rulemaking on small businesses. A.R.S. § 41-1035 requires agencies to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives for the rulemaking. "Small business" is defined in A.R.S. § 41-1001 as "a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations." Based on the number and size of Arizona copper smelters, ADEQ has determined that this rule does not impact any small businesses.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: David Lillie
Address: ADEQ, Air Quality Planning Section
1110 W. Washington
Phoenix, AZ 85007
Telephone: (602) 771-4461 (Any extension may be reached in-state by dialing 1-800-234-5677, and asking for a specific number.)
Fax: (602) 771-2366
E-mail: Lillie.David@ev.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:

Notices of Proposed Rulemaking

Date: November 4, 2004
Time: 1:30 p.m.
Location: Hayden Town Hall
520 Velasco Ave.
Hayden, AZ 85235
Nature: Oral Proceeding with opportunity for formal comments on the record.
Close of Comment: 5:00 p.m., November 5, 2004

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

Not applicable

12. Incorporation by reference and their location in the rule:

Standard Methods of Chemical Analysis, Volume One, *The Elements*, Sixth Edition, N. Howell Furman (ed.), D. Van Nostrand Company, Inc., Princeton, New Jersey, 1962, pages 410-411, 1006-1011, and 1342-1343 are incorporated by reference in Appendix 8, section A8.4.3.

13. The full text of the rule follows:

TITLE 18. ENVIRONMENTAL QUALITY

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

A8. APPENDIX 8

**PROCEDURES FOR UTILIZING THE SULFUR BALANCE
METHOD FOR DETERMINING SULFUR EMISSIONS**

A8.1. Calculating Input Sulfur

Total sulfur input is the sum of the product of the weight of each sulfur bearing material introduced into the smelting process as calculated in A8.1.1. ~~below~~ multiplied by the fraction of sulfur contained in that material as calculated in A8.1.2. ~~below~~ plus the amount of sulfur contained in fuel utilized in the smelting process as calculated in A8.1.3. ~~below~~.

A8.1.1. Material Weight

All sulfur bearing materials, other than fuels, introduced into the smelting process shall be weighed. Such weighing shall be subject to the following conditions:

A8.1.1.1. Weight shall be determined on a belt scale, rail or truck scales, or other weighing device.

A8.1.1.2. Weight shall be determined within an accuracy of $\pm 5\%$.

A8.1.1.3. All devices or scales used for weighing are to be calibrated to manufacturer's specifications but no less than once a month.

A8.1.1.4. Sulfur bearing materials subject to being weighed shall include but not be limited to concentrate, cement copper, reverts which are discarded and not part of the internal circulating load and precipitates. Materials such as limestone and silica flux which are mixed with a charge of sulfur bearing materials shall be weighed and reported.

A8.1.2. Sulfur Content

The sulfur content of all sulfur bearing materials introduced into the smelting process shall be calculated using the following steps or an alternative method approved according to A8.4.1 ~~equivalent method approved by the Director~~.

A8.1.2.1. Sampling

The procedure to be followed in sampling is dependent upon the input vehicles for the sulfur bearing material.

A8.1.2.1.1. Beltfeed

The smelter operator shall collect a five-pound sample each hour. Hourly samples shall be combined for a total daily sample.

A8.1.2.1.2. Railcar

The smelter operator shall collect a 24-pound sample from each car by the auger method at a minimum of four points. Each car sample shall be combined with all other car samples for a total lot sample.

A8.1.2.1.3. Truck

The smelter operator shall collect a 12-pound sample from each truck load. Samples are to be taken at two points during unloading. Where more than one truck delivers a single lot, the samples from each truck shall be combined for a total lot sample.

A8.1.2.2. Sample Preparation

Each total sample shall be prepared for analysis in the following manner:

A8.1.2.2.1. The sample shall be crushed to minus ¼ inch particles.

A8.1.2.2.2. 2000 gm of the sample shall be split out using a Jones Riffle Splitter or similar device.

A8.1.2.2.3. The 2000 gm sample shall be pulverized to minus 150 mesh.

A8.1.2.2.4. The pulverized mass shall be mixed using a rolling cloth.

A8.1.2.2.5. 500 gm shall be split out for sample analysis.

A8.1.2.3. Sample Analysis

A8.1.2.3.1. The sample shall be analyzed to determine sulfur content using the Barium Sulfate (BaSO₄) Gravimetric Method according to A8.4.3. Such analysis shall be accurate to within ±1% sulfur.

A8.1.2.3.2. For purposes of comparison the sample shall be analyzed for copper content using the Potassium ~~Iodine~~ Iodide (KI) Titration Method according to A8.4.3. Such analysis shall be accurate to within ±1% copper.

A8.1.3. Fuel Sulfur Content

Sulfur in fuels shall be calculated by multiplying the amount of fuel delivered to the process by the fraction of sulfur in the fuel as reported to the smelter operator by the fuel's supplier. The sulfur content determination shall be accurate to within ±5%.

A8.2. Calculating Removed Sulfur

Total removed sulfur is the sum of the sulfur removed in each of the following products as determined by each process set forth below or by other processes approved according to A8.4.1 ~~by the Director~~.

A8.2.1. ~~Furnace Reverberatory~~ and Converter Slags

A8.2.1.1. The weight of the slag shall be determined using a scale with an accuracy within ±5%.

A8.2.1.2. A five-pound sample shall be collected from each slag pot during tapping operations.

A8.2.1.3. The sample shall be prepared and the amount of sulfur and copper analyzed using the procedures specified in A8.1.2.2. and A8.1.2.3. ~~above~~.

A8.2.2. ~~Cottrell, Scrubber, and Cyclone Dusts~~ Dust Collection Equipment

A8.2.2.1. After the dust is collected and placed in a rail car or truck it shall be weighed using a scale with an accuracy within ±5%.

A8.2.2.2. The dust shall be sampled, and a sample prepared and analyzed for sulfur and copper using the procedures specified in A8.1.2.1., A8.1.2.2., and A8.1.2.3. ~~above~~.

A8.2.3. Strong Acids

A8.2.3.1. An inventory of strong acids shall be taken daily by means of a manometer or sight glass. The inventory shall be increased by the amounts of acid shipped or otherwise transferred during that day.

A8.2.3.2. The daily inventory will be accurate to within ±5%.

A8.2.3.3. A sample of each batch of the acid inventoried shall be taken and analyzed for sulfur according to ~~in accordance with~~ the procedures in A8.1.2.3. ~~above~~.

A8.2.4. Weak Acids

A8.2.4.1. The amount of weak acid discharged from an acid plant and scrubber systems is to be determined by a time volumetric method of measurement in gallons/minute and to an accuracy of within ±20%.

A8.2.4.2. A 500 ml sample of the weak acid shall be analyzed daily for sulfur content according to ~~in accordance with~~ the procedures in A8.1.2.3.

A8.2.5. Sulfur in Copper Production

A8.2.5.1. The weight of copper produced is to be determined by weight of copper cast to an accuracy of within ±5%.

A8.2.5.2. The weight and number of castings shall be recorded.

A8.2.5.3. A sample of the copper is to be obtained either by the grab sample method while casting, or by the use of at least three drill holes on a representative casting from each charge.

A8.2.5.4. At least one sample must be obtained from each charge.

A8.2.5.5. Each sample is to be analyzed for sulfur content using the ~~chemical~~ Barium Sulfate (BaSO₄) Gravimetric Method ~~gravimetric means of~~ according to A8.4.3. Such analysis shall be accurate to ~~to an accuracy of~~ within ~~±50%~~ ±50%.

A8.2.6. Materials in Process

A8.2.6.1. Total tonnage of materials in process shall be determined by physical inventory on the first or last day of each month.

A8.2.6.2. A monthly change in in-process inventory shall be calculated for each material in process by taking the difference between the inventory from each material in process on the first or last day of the preceding month and multiplying that difference by the monthly composite sulfur assay for that material.

A8.2.6.3. The change in monthly in-process inventory must be accurate to within ±50%.

A8.3. Sulfur Dioxide Emissions Monitoring

A8.3.1. The sulfur dioxide emissions monitoring and recording system required under R18-2-715.01(K) through R18-2-715.01(O) ~~R18-2-715(C)(4)~~ shall meet the following specifications:

A8.3.1.1. It shall be capable of continuously monitoring sulfur dioxide emissions with an accuracy of within ±20% and a confidence level of 95%.

- A8.3.1.2. Sulfur dioxide emission monitoring and recording equipment shall be operated and calibrated ~~in accordance with~~ according to manufacturer's specifications for the equipment except that calibration must be done at least once every 24 hours.
- A8.3.2. The sulfur removal equipment bypass monitoring required under ~~R18-2-715.01(Q) R18-2-715(C)(7)(v)~~ shall consist of a detector and recorder system capable of producing a permanent record of all periods in which a bypass has been operated.
- A8.4. General Provisions
- A8.4.1. For purposes of this Appendix, an approved ~~equivalent~~ alternative method, process, or procedure, must be approved ~~in writing~~ in writing by the Director ~~and the U.S. Environmental Protection Agency, as a condition within the Class I permit issued according to Article 3 of this Chapter prior to its use by a smelter operator.~~
- A8.4.2. The processes and procedures specified in this Appendix shall be available for inspection, review and verification by the Department at all reasonable times.
- A8.4.3. The barium sulfate gravimetric test method and potassium iodide titration test method shall be performed as provided in *Standard Methods of Chemical Analysis*, Volume One, *The Elements*, Sixth Edition, N. Howell Furman (ed.), D. Van Nostrand Company, Inc., Princeton, New Jersey, 1962, pages 410-411, 1006-1011, and 1342-1343 (and no future editions or amendments) which are incorporated herein by reference and available at the Department.