

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st 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 adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

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TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 4. DEPARTMENT OF ENVIRONMENTAL QUALITY - SAFE DRINKING WATER

PREAMBLE

1. **Sections Affected**

	<u>Rulemaking Action</u>
R18-4-101	Amend
R18-4-102	Amend
R18-4-104	Amend
R18-4-120	Amend
R18-4-122	Amend
R18-4-206	Amend
R18-4-212	Amend
R18-4-213	Amend
R18-4-216	Amend
R18-4-219	Amend
R18-4-224	New Section
R18-4-225	New Section
R18-4-226	New Section
R18-4-401	Amend
R18-4-402	Amend
R18-4-404	Amend
R18-4-405	Amend
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. §§ 49-202, 49-351, 49-353, 49-360

Implementing statutes: A.R.S. § 49-360
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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

The purpose of this rulemaking is to implement a centralized monitoring program authorized by SB 1252, passed during the 1997 legislative session. This program will provide for the collection, transportation and analysis of certain samples from public water systems by ADEQ in a frequency sufficient to keep the systems in compliance with the federal Safe Drinking Water Act requirements. The rules will also establish fees to support the program.

A. **Background for these proposed rules:**

During the 1997 legislative session, the Arizona Legislature passed Senate Bill (SB) 1252 which authorizes the Arizona Department of Environmental Quality (ADEQ) to establish a centralized monitoring program to assist public water systems in comply-

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ing with the monitoring requirements under the Federal Safe Drinking Water Act (SDWA). The primary purpose of the SDWA is to ensure that drinking water supplied to consumers by public water systems is safe to drink and does not exceed prescribed maximum contaminant levels (MCLs). Water suppliers are required to conduct monitoring every 3 years to verify that MCLs are not exceeded and to report the results to the ADEQ. If there are any MCL violations, the water supplier is required to provide public notification to persons who are served by the public water systems and to take necessary actions to eliminate the violations.

Drinking water monitoring requirements have been in existence since at least 1962 and since passage of the 1986 Drinking Water Act Amendments, the rate of change accelerated. As a result, the current monitoring requirements are extremely complex, difficult to understand and compliance is expensive.

Compliance monitoring rates for inorganic chemicals, VOCs and SOCs are extremely low. ADEQ has had a concerted technical assistance program, as well as an aggressive enforcement program. As a result of the lack of compliance monitoring, the water quality regarding these contaminants is unknown for most public water systems, particularly small water systems.

Some water systems spent considerable sums of money on monitoring and found themselves still out of compliance. These systems had not taken the appropriate number of samples at the appropriate locations in the appropriate time-frames, or failed to instruct the laboratories to run the appropriate analyses. Some results were rejected by ADEQ for reasons associated with the analytical methods used by the laboratories.

These problems combined to produce a groundswell of dissension in the drinking water industry that reached a crescendo in 1996. In response, a study team led by members of the Arizona Legislature, was formed and held a series of legislative hearings around the state during the summer of 1996 to hear about the problems and concerns facing small water systems. It produced a series of 11 recommendations which comprise the bulk of the content of SB 1252.

The purpose of the recommendation to establish centralized monitoring was to place this activity under the control of ADEQ Drinking Water Section, whose personnel have the best knowledge and understanding of the requirements. ADEQ can assure that all samples are taken when required and taken from the correct sampling locations and that appropriate handling and analytical methods are used.

SB 1252 established the Centralized Monitoring Fund, which will consist of fees collected from all participating public water systems. A major portion of the fees will be used to pay for analytical testing of water samples collected by ADEQ staff. ADEQ will contract with laboratories which are licensed by the Arizona Department of Health Services, or certified by the United States Environmental Protection Agency, to conduct the analysis of the samples. The laboratories will monitor the samples for 98 regulated and unregulated contaminants which are synthetic organic chemicals (SOCs), volatile organic chemicals (VOCs) and inorganic chemicals (IOCs), except for asbestos, copper, lead, nitrates and nitrites.

B. Specific section-by-section explanation of this proposal:

R18-4-101

This is the definition section for rules in Chapter 4, Safe Drinking Water. In this Section, ADEQ proposes new definitions for the centralized monitoring program for the terms "centralized monitoring program", "compliance sample", "meter", "meter weight" and "unit fee".

R18-4-102

ADEQ proposes to amend the applicability section to clarify to which public water systems the centralized monitoring program are applicable.

ADEQ proposes to amend R18-4-104(A) and (I) to clarify that the water supplier is not required to report the results of analysis taken under the centralized monitoring program. ADEQ proposes to amend subsection (J) to clarify that a water supplier is required to report the failure to comply with monitoring requirements for analyses taken under the Centralized Monitoring requirements. Additionally, ADEQ proposes to amend Subsection (J) to exclude analyses taken under the centralized monitoring program from reporting requirements for confirmation samples required under this subsection.

ADEQ proposes to amend R18-4-120 to clarify that monitoring conducted by ADEQ shall not be used by a public water system for compliance purposes, with the exception of analyses covered by the centralized monitoring program.

ADEQ proposes to amend R18-4-122 to add subsection (B) which provides that if the water supplier denies, restricts, limits or obstructs ADEQ's access to a facility, the public water system shall be responsible for the resulting noncompliance

ADEQ proposes to amend R18-4-206 to establish that ADEQ may take and composite samples and take confirmation samples, for listed inorganic chemicals, on behalf of the CWS or NTNCWS under the centralized monitoring program. This proposed section will also establish that the water supplier shall be responsible for the costs for sampling and analyses taken under the centralized monitoring program.

The proposed section, R18-4-212, will establish the ADEQ may composite samples taken on behalf of the CWS or NTNCWS under the centralized monitoring program. It also provides for ADEQ to reduce the frequency of monitoring and for ADEQ to grant waivers and update as water system's vulnerability assessment, on the Department's own initiative.

ADEQ proposes to amend R18-4-213 to establish that ADEQ may conduct monitoring for vinyl chloride, on behalf of the CWS

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or NTNCWS.

ADEQ proposes to amend R18-4-216 to provide that ADEQ may conduct monitoring on behalf of the CWS or NTNCWS for listed synthetic organic chemicals, and to provide for granting waivers on the ADEQ's initiative.

ADEQ proposes to amend R18-4-219 to provide for compositing samples and taking follow-up samples under the centralized monitoring program.

The proposed section R18-4-224 will establish the requirements for the centralized monitoring program. It will establish who shall or may participate, for what chemicals monitoring shall be conducted, responsibilities of the public water system under the program, and that the sampling by ADEQ is contingent upon available funds.

ADEQ proposes R18-4-225 to establish the fee requirements for the public water system for costs incurred by ADEQ under the centralized monitoring program. This section will set forth the method for calculating the annual unit fee and total fee charged to the public water system. It will provide that a public water system which serves more than 10,000 persons shall pay its total annual monitoring fees prior to commencement of monitoring by the Department. This section will also provide for use of the fees to cover Department costs for the program and for unexpended fund amounts to be used in calculating the unit fee for subsequent years.

ADEQ proposes R18-4-226 to establish the requirements for collection of fees by the public water system and payment of those fees to ADEQ. It will provide for mailing of the invoice by ADEQ and for quarterly payments by the water supplier. Also in this section will be requirements for refunds, billing corrections, verification by ADEQ the number and size of meters or number of service connections and the provision that ADEQ shall not waive fees.

ADEQ proposes to amend R18-4-401 to establish that ADEQ may conduct compliance monitoring for a CWS and NTNCWS for sulfate and grant waivers under the centralized monitoring program.

ADEQ proposes to amend R18-4-402 to establish that ADEQ may conduct monitoring for sodium on behalf of the CWS.

ADEQ proposes to amend R18-4-404 to provide that, under the centralized monitoring program, ADEQ may conduct monitoring on behalf of the CWS or NTNCWS for the maximum contaminant levels for listed unregulated volatile organic chemicals, and that ADEQ may, on its own initiative, grant waivers.

ADEQ proposes to amend R18-4-405 to provide that, under the centralized monitoring program, ADEQ may conduct monitoring on behalf of the CWS or NTNCWS for listed unregulated synthetic organic chemicals, and that ADEQ may, on its own initiative, grant waivers.

5. **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

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

Under authority of SB 1252, the Department of Environmental Quality (DEQ) has established the centralized monitoring program to assist public water systems in complying with monitoring requirements under the Federal Safe Drinking Water Act. The program is mandatory for all small public water systems (those serving 10,000 people or less), and is optional for public water systems that serve more than 10,000. Currently, there are a total of 1,764 public water systems in Arizona, 979 (55%) of which are to be governed by this rule. All 979 systems serve fewer than 10,000 people, and are either community water systems (CWSs) or non-transient, non-community water systems (NTNCWSs). CWSs are those that deliver water to at least 25 people or 15 service connections year round; and NTNCWSs serve an average of 25 persons (or 15 service connections) or more for at least 6 months a year.

The Centralized Monitoring Program:

The centralized monitoring program provides for a monitoring process which consists of the collection, transportation and analytical testing of samples from all participating public water systems. Under the program, ADEQ staff will collect and transport samples to monitor a total of 98 regulated and unregulated chemical contaminants under the following categories: volatile organic chemicals (VOCs), synthetic organic chemicals (SOCs) and inorganic chemicals (IOCs) except for asbestos, copper, lead, nitrates and nitrites. All samples that are tested and discovered to exceed maximum contaminant levels (MCLs) will be subjected to increased sampling by ADEQ, and public notification requirements by the public water system owner, as stipulated by existing rules.

The remaining IOCs, radiochemicals and other contaminants including total coliform, will still be monitored as required by existing State rules (18 A.A.C. 4, Article 2), but they will continue to be the responsibility of public water system owners and operators. Analytical testing for contaminants covered by this rule will be carried out by ADHS-certified laboratories under contract with ADEQ. The contracts are being developed by ADEQ Contracts and Procurement Section.

Noncompliance:

Under current state law, sampling and testing to ensure safe drinking water for Arizona's residents is a responsibility of public water system owners/operators. To achieve compliance under existing state rules, all public water systems are supposed to have:

- a) monitored for all contaminants,
- b) monitored all their sampling locations or points of entry (POEs), and
- c) carried out the monitoring during their assigned monitoring year.

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Based on these requirements, there has tended to be a high noncompliance rate among small public water systems in Arizona. Indicative of this noncompliance is public water system performance pertaining to SOCs. ADEQ records show that only 26% of public water systems at that time complied during the 1993-95 monitoring period (939 was the total in 1995, as differentiated from the FY 1997 total of 979). Another 43% were in partial compliance (that is, they monitored for fewer than the required number of SOCs); and 31% did not monitor at all. Thus, a fairly large majority (74%) of small systems exhibited monitoring deficiencies of 1 kind or another.

This level of monitoring non-compliance makes it extremely difficult for ADEQ to assure the public that its drinking water supply is safe. Certainly, for those residents whose water comes from sources that have not been sampled and tested, questions about public health and safety are raised. As a result, ADEQ is authorized to develop the centralized monitoring program to ensure that the required monitoring is performed and public health is protected.

The Cost of Compliance:

If all public water systems had complied by monitoring during their designated year, they would have incurred a certain level of expenditures. Universal compliance would have come at a cost, and that probable cost is currently being researched by ADEQ staff, with data provided by public water system owners/operators. ADEQ believes that the centralized monitoring program will be more cost-effective than a situation in which each public water system independently complies on its own. For example, certain operational and market efficiencies are achieved when there is a centralized process of scheduling, sampling, transportation, analytical testing, and reporting of results. A greater degree of compliance will occur when ADEQ brings all participating public water systems into the program during their designated monitoring year.

Therefore, the aim of the centralized monitoring program is to enable ADEQ to lead the effort in achieving universal monitoring compliance for these covered contaminants. In cases where MCL violations occur, ADEQ will take the necessary steps for the protection of public health.

Distribution of Costs:

It is important to remember that the cost of universal compliance will ultimately be borne by the beneficiaries of this rule -- the residents of Arizona for whom a safe drinking water supply is assured when the monitoring process is completed.

The costs of the centralized monitoring program will be distributed to participating public water systems, and they will in turn pass the costs on to their customers or residents. In the case of public water systems that do not charge customers directly for the service of providing drinking water (for example, mining companies and other businesses), they will absorb the costs but will pass these on to customers through product pricing. Public institutions like schools will pay for the costs through their budgeting process, and therefore the taxpayers will bear the costs.

The method of cost allocation is as follows: Each public water system determines the number and size of all of their water meters or service connections by December 31 of each year. This information is provided to ADEQ by March 15 of the subsequent year. ADEQ prepares an invoice based on this information and charges a unit cost for each size of service connection and/or meter. The unit cost is derived by dividing the total annual program budget by the total number of service connections, adjusted for size. The water system may choose to pay annually or quarterly.

Centralized monitoring program budget projections for FY 1998 and up to the year 2001 are being prepared to enable a preliminary assessment of what resources will be required. A tentative expenditure of around \$8 million over a period of 4 years, or \$2 million annually is projected. But some uncertainty still exists concerning several aspects of the process, not the least of which are the costs for analytical testing as well as the terms and conditions of the ADEQ/Laboratory contract.

In addition to analytical costs, there will be administrative and operational cost savings to public water systems as a result of implementing the centralized monitoring program. Also, there will be cost avoidances associated with being in compliance: liability, fines and penalties, enforcement response and public notification. Consequently, ADEQ will be able to focus its enforcement resources on higher health-risk priorities.

ADEQ will achieve savings that will benefit the centralized monitoring program due to the reduction of required samples through the implementation of 5 other elements of the ADEQ drinking water program: Source Water Assessments, the Drinking Water Needs Survey, the Global Positioning System Survey, Waivers, and the Sanitary Survey.

ADEQ mailed a questionnaire survey to all covered public water systems in July 1997, to obtain data from regulated entities on the costs of compliance monitoring and other information pertinent to this rule. Survey method, analysis and results will be fully explained in the final EIS.

Centralized Monitoring Program Sampling Plan:

The actual costs and program budget will be determined by a detailed centralized monitoring program Sampling Plan which is under development by the Drinking Water Section. Commencing in 1998, the sampling plan will include monitoring of a large number of systems that were supposed to monitor in 1996 and 1997, but failed to do so for a variety of reasons. In addition, all systems designated for the year 1998 will be monitored.

The Sampling Plan is being crafted according to certain variables that will dictate costs. Among the cost variables are:

- a) the number of sampling locations or POEs;
- b) the required sampling frequency which is dependent on the population size a public water system serves;
- c) whether the source is surface or groundwater;
- d) compositing;

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- e) the EPA-approved testing method;
- f) waivers; and
- g) occurrence of detects and MCL violations.

For example, public water systems with surface water sources will require more frequent monitoring, and therefore the costs will be higher. But the costs associated with that particular system could be lowered if compositing occurs or if waivers apply.

Centralized Monitoring Program Benefits:

The benefits of the program, which are presently unquantifiable but will be more fully addressed in the final EIS, are anticipated to arise from 3 factors:

- a) the costs of the centralized monitoring program as administered by ADEQ will be economically less burdensome overall than the combined costs of individual public water system compliance;
- b) the cost allocation method will equalize the relative costs to all water consumers, and thus be more equitable and responsive to the customers of the smallest and least financially-able public water systems; and
- c) the benefits associated with public health and safety that derive from delivery of safe drinking water. All the contaminants that are required to be tested for are either known carcinogens or have been known to cause or be associated with many other diseases, including kidney and liver diseases. There are documented cases of MCL exceedances in Arizona that have posed a clear threat to public health. ADEQ believes that the benefits of the centralized monitoring program will far outweigh its costs to the degree that safe drinking water is critical to general public health, and contributes in a significant way to the prevention of many diseases.

A.R.S. § 41-1055 Requirements for an EIS:

B(2) PERSONS DIRECTLY AFFECTED BY THE RULE:

- a) Arizona Department of Environmental Quality -- ADEQ, as the implementing agency, is charged with setting up the centralized monitoring program for safe drinking water in Arizona.
- b) Arizona Department of Health Services (ADHS) Laboratory Licensure and State Laboratory -- The Laboratory Licensure certifies private commercial laboratories, both in and outside Arizona, that will conduct analytical testing under a contract with ADEQ. For purposes of this program, certification means drinking water analytical testing certification. Under an existing ADEQ-ADHS Interagency Service Agreement the State Laboratory will analyze selected samples collected by ADEQ. The State Laboratory will also play a role in the evaluation of bidders for the ADEQ-Laboratory Contract.
- c) Arizona Corporation Commission (ACC) -- The ACC regulates all public water systems that are classified as utilities and corporations, except trusts cooperatives, partnerships and sole proprietorships. SB 1252 requires that the ACC authorize all public water systems under its jurisdiction to recover the costs of implementing this program by passing these on to their customers.
- d) Public Water Systems -- Regulated entities who will be governed by this rule are all small public water systems (serving 10,000 or fewer people), as well as public water systems serving more than 10,000 that choose to participate in the program. All participating public water systems will be required to pay for the program costs and pass these on to their residents or customers.
- e) Private Laboratories -- Private Laboratories that are ADHS-certified and enter into a contractual agreement with ADEQ, will carry out analytical testing of samples collected by ADEQ staff.
- f) Private Sector Suppliers -- Businesses in the various industries that will be directly and indirectly affected by the centralized monitoring program monitoring process (manufacturers and distributors of bottles and other supplies used for sampling and testing, transportation companies), will benefit from new business that will accompany universal (or near universal) compliance.
- g) Residents and Water Consumers of the State -- Arizona residents and water consumers who are served by the participating public water system, will pay for and receive the benefits of the program.
- h) Taxpayers -- The taxpaying public that support municipalities will provide a partial subsidy for this program through the use of monies, and possibly, grants, for that portion of the program that will cover the costs of monitoring by the public water system owned and operated by municipalities.

B(3) COST-BENEFIT ANALYSIS:

I. COSTS AND BENEFITS TO STATE AGENCIES

A. Costs to ADEQ. To implement this program, ADEQ will hire 9 new FTE's in FY 1998 consisting of 1 full-time Environmental Program Specialist (EPS), 2 Administrative Assistants (AA II), 3 Environmental Health Specialists (EHS IIs) and 3 Environmental Engineering Specialists (EESs). The EPS, the EHS IIs and EESs will join existing ADEQ program teams that will be deployed to collect water samples and carry out other program functions. The AA II will provide clerical support for program staff essentially through scheduling and coordinating the sample collection. Additional new FTEs may be hired in later years if a need is established.

The ADEQ Drinking Water and Budget Sections have prepared preliminary program cost projections and estimated these to be \$8.2 million from FY 1998 through 2001. Actual program costs will be heavily influenced by the cost variables indicated above, and whether large systems will choose to participate. A majority of the projected program costs (62.5% or \$5.1 million over 4 years) will consist of amounts to be allocated for analytical testing of the samples. This sum will be paid to the laboratories that will be on contract with ADEQ. Actual costs cannot be calculated until the ADEQ/Laboratory Contract is finalized. The remaining 37.5% of the budget (\$3.1 million over 4 years) will cover the costs for ADEQ to administer the program, which will include staffing, travel, supplies and equipment, start-up and other operations and maintenance costs. The amount of \$3.1 million (or

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about \$775,000 annually) is intended to cover all reasonable direct and indirect costs of the program, as authorized by A.R.S. §49-360.

Some of the initial program costs will be paid for by set aside monies which will come from the Small Water System Fund in the amount of \$100,000. This is a 1-time cost which will not be repeated, and which will be used primarily for the program's start-up costs. ADEQ sampling and billing for fees to pay for program costs will commence as soon as this rule package is approved.

Program costs during the initial year will include those for the sampling and testing of an estimated 220 public water system which were designated to monitor their systems in 1996 and 1997, but did not. Since ADEQ will be conducting the sampling, and because the program is mandatory for all small public water systems, those currently not in compliance will be brought into the program.

BENEFITS TO ADEQ:

ADEQ will be better able to accomplish its mission by providing a program to assure universal compliance. There will be no incremental dollar benefits to ADEQ. All budget carry-overs will remain in the Centralized Monitoring Fund and be put back into the following year's budget. The Department's costs to implement this program will be charged to participating public water systems, who will in turn pass these on to their residents or customers.

B. Arizona Department of Health Services (ADHS). The ADHS Laboratory Licensure functions as the agency that certifies commercial laboratories to ensure that they are qualified and equipped to do the analytical testing for drinking water and all other environmental compliance tests. To issue a certification, ADHS charges the laboratory an annual nonrefundable application fee which is based on the number of licensed parameters (ranging from \$1,000 for 1 to 9 parameters, to \$1,400 for more than 17 parameters). In addition to the licensure application fee, applicants pay for the licensure of approved methods and associated instrumentation according to a fee schedule that is set in ADHS rules.

There may be some increase in ADHS certification and laboratory activities as a result of this rule, but no incremental costs or benefits to the agency are anticipated.

C. Arizona Corporation Commission (ACC). The ACC regulates all privately-owned public water systems classified as utilities and corporations. ACC staff anticipate more applications coming into the agency for water utility surcharges, but there will be no incremental costs and benefits to the agency. Any costs the agency may incur to administer this program will come mainly from granting authority to public water systems under its jurisdiction to recover the costs of the centralized monitoring program. At present, there are 410 public water systems which are regulated by ACC.

D. State and Federal agencies that are regulated by ADEQ -- State and federal agencies that are small public water system owners/operators like the Department of Corrections and the Department of Transportation, are not impacted by this rule.

II. COSTS AND BENEFITS TO POLITICAL SUBDIVISIONS OF THE STATE:

A. Counties, municipalities and quasi-government entities, including cities and towns, and Domestic Water Improvement Districts that are small public water system owners/operators, will be required to participate in the program and pass on their costs to their residents, ratepayers or customers.

Part of the benefits that small public water systems will realize from this program, whether they are public or privately-owned, is that they will be relieved of the administrative burdens of sampling and testing for compliance purposes. Some system owners have complained in the past that existing monitoring rules are too complex, confusing, and difficult to follow. This rule will enable ADEQ staff to collect and transport the samples, and to let private laboratories on contract with ADEQ carry out the testing. Thus, compliance monitoring procedures will be handled by ADEQ staff so that universal compliance will be actively and systematically pursued.

III. COSTS AND BENEFITS TO PRIVATE BUSINESSES, INCLUDING SMALL BUSINESSES:

A. Laboratories -- Private laboratories which contract with ADEQ will provide and be paid for analytical testing services. They will also be required to submit test results to ADEQ and the public water system owner/operator. These laboratories may be Arizona-based or out-of-state, as long as they are ADHS-certified. Among the laboratories' cost of doing business will be the certification fees they will pay to ADHS.

Four laboratories in Phoenix (2 of which have branch offices in Tucson), and 1 in California, provided ADEQ staff with 1997 price schedules for chemical sampling. All of them are ADHS-certified and are currently doing business in the State. The information yielded the following average figures:

Type of Contaminant	Average Unit Price
I. IOCs	\$301.42
Unreg. IOCs	31.52
II. VOCs	166.20
Unreg. VOCs (included in VOCs)	
III. SOCs	2,031.63
Unreg. SOCs (included in SOCs)	
TOTAL:	2,530.77

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These price quotes enable an estimate of potential costs for a full set of tests, although the amounts are indicative only of the unit price, not necessarily the price for the required frequency of sampling. SOC testing is by far the most costly component of analytical monitoring, accounting for about 80% of the total unit price. These figures are tentative since the laboratory contract is still under development. Furthermore, there are several other variables which will heavily influence ultimate program costs.

Analytical testing for the centralized monitoring program will constitute a business opportunity for the contracted laboratories. The incremental business opportunity is represented by the work that will be created by the compliance monitoring for all covered public water systems. The contract prices are assumed to contain a profit margin commensurate with the laboratory owners' desired rate of return.

B) Privately-owned Public Water Systems (public water systems) -- Private public water systems are composed of for-profit companies or non-profit organizations. The ADEQ drinking water records indicate that private public water systems constitute more than 3/4 (78.6%) of Arizona public water systems, and only 21.4% are made up of municipalities or quasi-government facilities.

Some of the compliance monitoring costs to privately-owned public water systems are variable. Sampling requirements for groundwater sources will apply in the vast majority of cases, since public water systems with groundwater sources exclusively constitute an estimated 98% of the systems, although the costs for analytical testing of a set of samples from any 1 public water system could vary considerably. A small minority of public water systems with surface water sources require different sampling frequencies than groundwater systems during the 3-year monitoring cycle: an annual sample for VOCs and IOCs. The costs for surface water sampling and monitoring will therefore be greater. Small systems serving more than 3,300 will also have greater SOC sampling frequencies, since they have to monitor during 2 non-consecutive quarters every 3 years.

If it is determined that the costs for ADEQ to implement the program is less than the projected costs for universal compliance, the costs savings will be passed on to all public water system customers. This will be a distinct dollar benefit that will accrue to all regulated entities. They will also be assured that their customers and residents are being provided with safe drinking water.

Another key benefit anticipated from the program is a more equitable allocation of costs, with the assumption of universal compliance. Under the current system, some small public water systems are unable to comply for financial reasons. Individual public water system resources are highly variable so that compliance affordability becomes a key issue. Since the monitoring requirements and accompanying analytical costs are not based on system size, large systems have a greater number of customers among which to distribute their costs, resulting in a lower per capita cost. Systems serving smaller populations have higher per capita costs if each system is considered as an independent financial unit. For example, some public water system owners of smaller systems have indicated that their customers are on fixed incomes or social security.

C) Contingency Costs and Benefits:

1. Public Notification -- If an MCL exceedance is detected from the testing of a sample, the public served by the relevant public water system has to be notified within 48 hours of completed test results. This is a contingency cost required by the existing rule. Local newspapers and other publications which contain public notices will benefit from new business which will stem mainly from public water systems that are found to have MCL violations.

The costs for public notification vary with each newspaper, number of words contained in the public notice, day of publication and circulation size.

The benefits of public notification derive from alerting the relevant public to possible questions regarding the safety of their drinking water supply. This will enable residents to seek alternative sources of drinking water until the problem is verified and resolved. The consuming public will, thus, avoid the adverse consequences of drinking unsafe water.

2. Compositing -- Compositing of samples is allowed when certain conditions are met. Compositing can cut costs significantly because it allows up to 5 samples to be tested as a single sample. Savings could be as much as 80% for a group of samples if the appropriate conditions apply. For systems serving fewer than 3,300 people, compositing between systems may be done; for those serving more than 3,300, compositing within the system may be carried out.

3. Waivers -- Waivers are designed to reduce sampling frequency, and therefore, the costs of monitoring, when the risks of contamination are determined by ADEQ to be low. ADEQ may grant a waiver if the staff determines that a system is unlikely to become contaminated, or that any contamination will remain reliably and consistently below the MCLs during the waiver period. Thus, significant savings could also occur from a waiver program.

The cost of public noticing in the event of a detect or MCL violation will be borne by the relevant public water system owner or operator. But expenditures for repeat sampling for systems found to be in violation as well as the savings benefits stemming from all composited samples and waivers will be allocated to all participating systems.

IV. COSTS AND BENEFITS TO RESIDENTS AND CONSUMERS:

Residents and consumers are expected to benefit from the centralized monitoring program in distinct ways. To illustrate, assume a hypothetical case of 2 public water systems that each incurs a cost of \$3,000 (administrative and laboratory costs) for sampling and monitoring in 1 year. If 1 of the systems serves 3,300 people (an estimated 1,236 households), each household would pay \$2.43 to cover the costs. If the other system serves only 50 people (about 19 households), each household would pay \$158 (or \$321 if the system serves only 25 people). If the 2 systems serving 3,350 people combined their resources and assumed a cost of \$6,000 annually, each household would pay about \$4.78. Households in the larger system would pay slightly more, but households in the smaller system will pay significantly less. Affordability becomes more marked when all households share the costs

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equally.

Safe drinking water is basic to public health and the most recent standards established by the federal Safe Drinking Water Act have determined the desired margin of safety. To assure that this margin of safety is achieved, all residents pay an equitable share for compliance monitoring. Under this simple scenario, certain synergies and efficiencies are achieved, the benefits of which are passed on to all residents and customers.

Judging from the relatively high noncompliance rate, compliance is probably a function of 2 factors: the ability to pay, and the complexity of the rule. Some public water system owners are probably willing to comply, but cannot afford the cost of sampling and testing. Others may be able to afford the costs, but are unable to follow the complex procedures involved. And for still others, both the cost and the complexity may be problematic. ADEQ has come to the conclusion that by taking charge of the monitoring process, and by developing a fee structure in which a relatively equal cost burden will be shared by all households and other relevant business units, the entire population of Arizona served by small drinking water systems will be served in a fairer and more equitable manner.

7. 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: Margaret L. McClelland or Martha Seaman
Address: Department of Environmental Quality
3033 North Central Avenue
Phoenix, Arizona 85012
Telephone: (602) 207-2222
Fax: (602) 207-2251

8. 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:

ADEQ will hold oral proceedings to receive public comments in accordance with A.R.S. § 41-1023. The time, place, and location of the hearings are listed below:

Tucson
Tuesday January 6, 1998
10 a.m.
State Office Building
Hearing Room - 222
400 West Congress
Tucson, Arizona

Lake Havasu City
January 8, 1998
10 a.m.
Lake Havasu City Police Department Building
2360 McCulloch Blvd.
Lake Havasu, Arizona

Payson
January 13, 1998
10 a.m.
Payson Fire Department
2nd Floor meeting room
400 West Main Street
Payson, Arizona

Sedona
January 14, 1998
10 a.m.
Associated Realtors Building
55 Sinagua Drive
West Sedona, Arizona

Phoenix
January 15, 1998
6 p.m.
Arizona Department of Environmental Quality
3033 North Central Avenue
Public Meeting Room
Phoenix, Arizona 85012

ADEQ will accept oral or written comments that are received by 5 p.m., January 20, 1998, or postmarked no later than that date.

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ADEQ is committed to complying with the Americans With Disabilities Act. If any individual with a disability needs any type of accommodation, please contact ADEQ at least 72 hours before the hearing.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None
10. Incorporations by reference and their location in the rules:
Not applicable
11. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 4. DEPARTMENT OF ENVIRONMENTAL QUALITY - SAFE DRINKING WATER

ARTICLE 1. DEFINITIONS

Section	
R18-4-101.	Definitions
R18-4-102.	Applicability
R18-4-104.	Reporting Requirements
R18-4-120.	Monitoring and Sampling by the Department
R18-4-122.	Entry and Inspection of Public and Semipublic Water Systems

sis of samples from a public water system in accordance with the provisions of R18-4-224 through R18-4-226.

- 8 9. No change
9 10. No change
10 11. No change
11 12. No change
12 13. No change
14. "Compliance Sample" means a sample taken by the water system to comply with monitoring requirements of this Chapter.

**ARTICLE 2. MAXIMUM CONTAMINANT LEVELS
MONITORING REQUIREMENTS; CENTRALIZED
MONITORING PROGRAM**

Section	
R18-4-206.	Monitoring Requirements for Antimony, Arsenic, Barium, Beryllium, Cadmium, Chromium, Cyanide, Fluoride, Mercury, Nickel, Selenium and Thallium
R18-4-212.	Volatile Organic Chemicals; Monitoring Requirements
R18-4-213.	Vinyl Chloride; Monitoring Requirements
R18-4-216.	Synthetic Organic Chemicals; Monitoring Requirements
R18-4-219.	Sample Compositing
<u>R18-4-224.</u>	<u>The centralized monitoring program</u>
<u>R18-4-225.</u>	<u>Fees for the centralized monitoring program</u>
<u>R18-4-226.</u>	<u>Collection and Payment of Fees</u>

- 13 15. No change
14 16. No change
15 17. No change
16 18. No change
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48 50. No change
49 51. No change
50 52. No change
51 53. No change
52 54. No change

ARTICLE 4. SPECIAL MONITORING REQUIREMENTS

Section	
R18-4-401.	Special Monitoring Requirements for Sulfate
R18-4-402.	Special Monitoring for Sodium
R18-4-404.	Special Monitoring for Unregulated Volatile Organic Chemicals
R18-4-405.	Special Monitoring for Unregulated Synthetic Organic Chemicals

ARTICLE 1. GENERAL REQUIREMENTS

R18-4-101.	Definitions
The terms in this Chapter have the following meanings:	
1.	No change
2.	No change
3.	No change
4.	No change
5.	No change
6.	No change
7.	No change
8.	<u>"Centralized monitoring program" means the program established pursuant to A.R.S. § 49-360, under which ADEQ provides for collection, transportation and analy-</u>

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55. "Meter" means the device which measures the volume of water which has passed through it.

56. "Meter weight" means the number of gallons per minute divided by 30.

53 ~~57~~. No change

54 ~~58~~. No change

55 ~~59~~. No change

56 ~~60~~. No change

57 ~~61~~. No change

58 ~~62~~. No change

59 ~~63~~. No change

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62 ~~66~~. No change

63 ~~67~~. No change

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78 ~~82~~. No change

79 ~~83~~. No change

80 ~~84~~. No change

81 ~~85~~. No change

82 ~~86~~. No change

83 ~~87~~. No change

85 ~~88~~. No change

85 ~~89~~. No change

86 ~~90~~. No change

87 ~~91~~. No change

88 ~~92~~. No change

89 ~~93~~. No change

90 ~~94~~. No change

91 ~~95~~. No change

92 ~~96~~. No change

93 ~~97~~. No change

94 ~~98~~. No change

95 ~~99~~. No change

100. "Unit fee" means the amount charged under the centralized monitoring program based on a meter size less than or equal to 3/4", or if unmetered, a service connection size less than or equal to 3/4" which is equal to a weight factor of 1.

96 ~~101~~. No change

97 ~~102~~. No change

98 ~~103~~. No change

99 ~~104~~. No change

100 ~~105~~. No change

101 ~~106~~. No change

102 ~~107~~. No change

103 ~~108~~. No change

104 ~~109~~. No change

R18-4-102. Applicability

A. No change

B. No change

C. No change

D. A public water system which serves 10,000 or fewer persons shall participate in the centralized monitoring program. A public water system that serves greater than 10,000 persons may participate in the centralized monitoring program if the requirements of R18-4-224(B) and (C) are met.

R18-4-104. Reporting Requirements

A. Routine monitoring to determine compliance with MCLs: Except as specified in this subsection, a water supplier shall report the results of any test measurement or analysis required by Article 2 of this Chapter except those analysis taken under the centralized monitoring program to the Department within the 1st 10 days following the month in which the result is received or the 1st 10 days following the end of a required monitoring period prescribed by the Department, whichever is less.

1. If fecal coliforms or *E. coli* are present in a total coliform-positive sample, a water supplier shall report the positive results to the Department, by telephone or facsimile, as soon as possible but no later than 24 hours after receiving notice of the fecal coliform-positive or *E. coli*-positive test result.

2. If nitrate is present in a sample in a concentration which exceeds 10 mg/L, then a water supplier shall report the exceedance to the Department within 24 hours of receipt of analytical results which indicate the exceedance.

3. A water supplier shall report the arithmetic average of analytical results for total trihalomethanes within 30 days of receipt of the last analytical results of the previous quarter.

B. No change

C. No change

D. No change

E. No change

F. No change

G. No change

H. No change

I. Reporting requirements under Article 4: A water supplier who is required to conduct special monitoring as prescribed in Article 4 of this Chapter, except those analyses taken under the centralized monitoring program in Article 2 of this Chapter, shall report the following information to the Department:

1. A water supplier who is required to conduct special monitoring for sulfate pursuant to R18-4-401 shall report the sulfate monitoring results to the Department within 30 days of receipt of analytical results.

2. A water supplier who is required to conduct special monitoring for sodium pursuant to R18-4-402 shall report the sodium monitoring results to the Department within the 1st 10 days of the month following the month in which analytical results are received. A water supplier shall notify the Arizona Department of Health Services [ADHS] and the county health department of the sodium levels by direct mail within 3 months of receipt of analytical results of sodium monitoring. A copy of each notice required to be provided to ADHS and the county health department shall be sent to the Department within 10 days of issuance.

3. A water supplier who is required to conduct special monitoring for water corrosivity characteristics pursuant to R18-4-403 shall report the water corrosivity characteristics monitoring results to the Department within the 1st 10 days of the month following the month in which analytical results are received.

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4. A water supplier who is required to conduct special monitoring for unregulated volatile organic chemicals [VOC] pursuant to R18-4-404 shall report the unregulated VOC monitoring results to the Department within 30 days of receipt of analytical results.
 5. A water supplier who is required to conduct special monitoring for unregulated synthetic organic chemicals [SOC] pursuant to R18-4-405 shall report the unregulated SOC monitoring results to the Department within 30 days of receipt of analytical results. A CWS or NTNCWS shall complete initial monitoring and report the unregulated SOC monitoring results to the Department by December 31, 1995.
- J. Failure to comply with monitoring requirements: A water supplier shall report the failure to comply with any monitoring requirement prescribed in this Chapter, including those analyses covered by the centralized monitoring program in Article 2 of this Chapter, to the Department within 48 hours except that a public water system which fails to comply with a total coliform monitoring requirement shall report the monitoring violation to the Department within 10 days of discovery.
- K. No change
- L. No change
- M. No change
- N. Confirmation sample results: A water supplier shall report the analytical results of any confirmation sample required by the Department within 24 hours of receipt of the analytical results except those analyses covered under the centralized monitoring program under Article 2 of this Chapter.
- O. No change
- P. No change
- Q. No change
- R. No change

R18-4-120. Monitoring and Sampling by the Department

- A. No change
- B. If a public water system fails to conduct required monitoring, the Department may conduct monitoring to determine the system's compliance with maximum contaminant levels. Any monitoring conducted by the Department shall not be used by a public water system to satisfy any monitoring requirements prescribed by this Chapter, except those analyses covered by the centralized monitoring program, toward a public water system's compliance for sample requirements under the centralized monitoring program.

R18-4-122. Entry and Inspection of Public and Semipublic Water Systems

- A. No change
- B. If the water supplier denies, restricts, limits or obstructs access to the facilities in any manner, the public water system shall be responsible for the resulting noncompliance.

**ARTICLE 2. MAXIMUM CONTAMINANT LEVELS
MONITORING REQUIREMENTS; CENTRALIZED
MONITORING PROGRAM:**

R18-4-206. Monitoring Requirements for Antimony, Arsenic, Barium, Beryllium, Cadmium, Chromium, Cyanide, Fluoride, Mercury, Nickel, Selenium and Thallium

- A. A transient, noncommunity water system is not required to monitor for the inorganic chemicals listed in this section. Community water systems [CWS] and nontransient, noncommunity water systems [NTNCWS] shall monitor for inorganic chemicals. However, under the centralized monitoring program, the Department may conduct monitoring on

behalf of the CWS or NTNCWS, for the following inorganic chemicals:

1. Each CWS shall conduct monitoring to determine compliance with the maximum contaminant levels for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium and thallium.
 2. Each NTNCWS shall conduct monitoring to determine compliance with the maximum contaminant levels for all of the inorganic chemicals listed in paragraph (A)(1) except fluoride.
- B. No change
- C. Each CWS and NTNCWS shall conduct monitoring for inorganic chemicals at each sampling point as prescribed in R18-4-218.
- D. A CWS or NTNCWS may composite samples for inorganic chemicals, or the Department may composite samples taken on behalf of the CWS or NTNCWS under the centralized monitoring program, for inorganic chemicals as prescribed in R18-4-219.
- E. No change
- F. No change
- G. No change
- H. Where the analytical results of an initial sample indicate that there is an exceedance of a maximum contaminant level, the Department may require that 1 confirmation sample be taken as soon as possible after the initial sample was taken, but not to exceed 2 weeks, at the same sampling point, except those analyses covered under the centralized monitoring program. The Department may take a confirmation sample within the time-frames prescribed above.
- I. No change
- J. A water supplier may apply to the Department to conduct monitoring at a sampling point more frequently than the monitoring frequency specified in subsection (E). A water supplier shall not conduct monitoring at a sampling point at a frequency greater than quarterly. If the Department gives written approval to conduct quarterly monitoring at a sampling point, then compliance shall be determined by a running annual average at that sampling point. If the running annual average at the sampling point is greater than the maximum contaminant level, then the system is out of compliance. If any 1 sample would cause the running annual average to exceed the maximum contaminant level, then the system is out of compliance immediately. The water supplier shall be responsible for all costs for sampling and analyses taken pursuant to this subsection.
- K. A water supplier may make a written request to reduce monitoring frequency at a sampling point. The Department may reduce monitoring frequency under the centralized monitoring program at a sampling point as follows:
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
- L. No change

R18-4-212. Volatile Organic Chemicals; Monitoring Requirements

- A. No change
- B. No change
1. No change
 2. No change

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- C. No change
- D. A water supplier may composite samples for volatile organic chemicals, or the Department may composite samples taken on behalf of the CWS or NTNCWS as under the centralized monitoring program, as prescribed in R18-4-219.
- E. No change
- F. No change
- G. No change
- H. No change
1. No change
 2. For a surface water sampling point, a minimum of 4 consecutive quarterly samples is taken (which may include the initial detection) and the concentration of the volatile organic chemical in each sample is below the maximum contaminant level. If the concentration of the volatile organic chemical is below the maximum contaminant level for a minimum of 4 consecutive quarterly samples, then the Department may reduce monitoring frequency at the surface water sampling point from quarterly to annually. If the Department reduces monitoring frequency to annually, then a CWS or NTNCWS shall take the annual sample during the quarter which previously yielded the highest analytical result. The Department shall not reduce monitoring frequency at a surface water sampling point to less than annually. Under the centralized monitoring program, the Department may reduce monitoring in accordance with the requirements of this paragraph.
- I. No change
- J. Compliance with the maximum contaminant level for a volatile organic chemical shall be determined based upon the analytical results obtained at each sampling point.
1. For a CWS or NTNCWS which samples quarterly or more frequently, compliance shall be determined by the running annual average of samples taken at each sampling point. If the running annual average at any sampling point is greater than the maximum contaminant level, then the system is out of compliance. If any quarterly sample would cause the running annual average to be exceeded, then the system is out of compliance immediately.
 2. If a CWS or NTNCWS samples on an annual or less frequent basis, the system is out of compliance if the concentration of a volatile organic chemical in a single sample exceeds the maximum contaminant level.
 3. A CWS or NTNCWS that is determined to be out of compliance with a maximum contaminant level for a volatile organic chemical at a groundwater or surface water sampling point shall take a minimum of 4 consecutive quarterly samples at that sampling point. The CWS or NTNCWS shall continue quarterly monitoring until the running annual average is below the maximum contaminant level. If the running annual average is below the maximum contaminant level, then the Department may reduce monitoring frequency at the groundwater or surface water sampling point from quarterly to annually. If the Department reduces monitoring frequency to annually, then a CWS or NTNCWS shall take the annual sample during the quarter which previously yielded the highest analytical result. If the concentration of the volatile organic chemical at a groundwater sampling point is below the maximum contaminant level for 3 consecutive annual samples, then a CWS or NTNCWS may request that the Department further reduce monitoring frequency at that groundwater sampling point to once every 3 years. Under the centralized monitoring program, the Department may reduce the monitoring frequency as described above. The Department shall not reduce monitoring frequency at a surface water sampling point to less than annually.
- K. No change
- L. A CWS or NTNCWS which does not detect a volatile organic chemical at a sampling point in a concentration greater than or equal to 0.0005 mg/l during initial monitoring may submit a written request to the Department for a waiver from repeat monitoring requirements. The Department may grant a waiver to a CWS or NTNCWS which is subject to the centralized monitoring program and systems shall not be required to request waivers. CWS or NTNCWS may not obtain a waiver from initial monitoring requirements. The Department may grant a monitoring waiver provided the CWS or NTNCWS is determined to be nonvulnerable, based upon a vulnerability assessment. A monitoring waiver for a groundwater sampling point shall be effective for a term not to exceed 6 years. A monitoring waiver for a surface water sampling point shall be effective for a 3-year term. The Department's decision to grant or deny a request for a monitoring waiver shall be in writing. The Department may grant a use or susceptibility waiver after evaluating the following factors:
1. Knowledge of previous use (including transport, storage, or disposal) of the volatile organic chemical within the watershed or zone of influence of the system. If the Department determines that there has been no previous use of the volatile organic chemical within the watershed or zone of influence, a use waiver may be granted.
 2. If previous use of the volatile organic chemical is unknown or if it has been used previously, then the following factors shall be used to determine whether a susceptibility waiver is granted:
 - a. Previous analytical results;
 - b. The proximity of the CWS or NTNCWS to a potential point or nonpoint source of contamination. Point sources include spills or leaks of chemicals at or near a water treatment plant or distribution system pipelines; or at manufacturing, distribution or storage facilities, or from hazardous and municipal waste landfills and other waste handling or treatment facilities;
 - c. The environmental persistence and transport of the volatile organic chemical;
 - d. The number of persons served by the CWS or NTNCWS and the proximity of a smaller system to a larger system; and
 - e. How well the water source is protected against contamination. Groundwater systems shall consider factors such as the depth of the well, the type of soil and wellhead protection. Surface water systems shall consider watershed protection.
 3. As a condition of a monitoring waiver for a groundwater sampling point, a CWS or NTNCWS shall take 1 sample at the groundwater sampling point during the time the waiver is effective (that is, 1 sample every 6 years). A CWS or NTNCWS also shall update its vulnerability

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assessment during the term of the waiver, considering the factors listed in paragraph L(2) above. The Department may renew a waiver based upon an updated vulnerability assessment, provided the assessment reconfirms that the CWS or NTNCWS is nonvulnerable. If the Department does not reconfirm nonvulnerability within 3 years of the initial determination, then the waiver is invalidated and the CWS or NTNCWS is required to sample annually in the next compliance period.

4. A CWS or NTNCWS which receives a monitoring waiver for a surface water sampling point shall sample at the frequency specified by the Department (if any). A CWS or NTNCWS shall update its vulnerability assessment during each compliance period. The Department may update a water system's vulnerability assessment for a CWS or NTNCWS which is subject to the centralized monitoring program. The Department may renew a waiver based upon an updated vulnerability assessment, provided the assessment reconfirms that the CWS or NTNCWS is nonvulnerable. If the Department does not reconfirm nonvulnerability, then the waiver is invalidated and a CWS or NTNCWS is required to sample annually at the surface water sampling point in the next compliance period.

R18-4-213. Vinyl Chloride; Monitoring Requirements

- A. A community water system [CWS] or a nontransient, non-community water system [NTNCWS] which detects trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene cis-1, 2-dichloroethylene, trans-1, 2-dichloroethylene or 1,1-dichloroethylene at a groundwater sampling point shall monitor quarterly for vinyl chloride at that sampling point. Under the centralized monitoring program, the Department may conduct monitoring on behalf of the CWS or NTNCWS. If vinyl chloride is not detected in the 1st quarterly sample, then the Department may reduce the quarterly monitoring frequency for vinyl chloride to 1 sample during each compliance period. The Department's decision to reduce monitoring frequency for vinyl chloride shall be in writing.
- B. No change

R18-4-216. Synthetic Organic Chemicals; Monitoring Requirements

- A. Each community water system [CWS] and nontransient, non-community water system [NTNCWS] shall ~~conduct monitoring to determine compliance with the maximum contaminant levels for synthetic organic chemicals listed in R18-4-215~~ monitor for synthetic organic chemicals. Under the centralized monitoring program, the Department may conduct monitoring on behalf of the CWS or NTNCWS to determine compliance with the maximum contaminant levels for synthetic organic chemicals listed in R18-4-215. Transient, non-community water systems ~~are~~ shall not be required to monitor for synthetic organic chemicals.
- B. No change
C. No change
D. No change
E. No change
F. No change
G. No change
H. If a CWS or NTNCWS detects a synthetic organic chemical listed in R18-4-215 (except atrazine, dibromochloropropane, ethylene dibromide and di(2-ethylhexyl)phthalate) at a sam-

pling point in a concentration that is greater than or equal to 50% of the maximum contaminant level for that synthetic organic chemical, then the system shall conduct quarterly monitoring for that synthetic organic chemical at that sampling point, beginning in the quarter immediately following collection of the sample where the synthetic organic chemical was detected. If a CWS or NTNCWS detects atrazine, dibromochloropropane, ethylene dibromide and di(2-ethylhexyl)phthalate at a sampling point in a concentration that is greater than the maximum contaminant level then the CWS or NTNCWS shall conduct quarterly monitoring for that contaminant. The CWS or NTNCWS shall continue quarterly monitoring at the sampling point until:

1. No change
 2. No change
 3. No change
 4. Under the centralized monitoring program, the Department may grant a waiver requested as prescribed in paragraph 3 above.
- I. No change
J. No change
K. No change
L. No change
M. A CWS or NTNCWS may submit a written request to the Department for a waiver from the monitoring requirements for a synthetic organic chemical. A monitoring waiver is effective for 1 compliance period (that is, 3 years). The Department's decision to grant a monitoring waiver shall be in writing. A CWS or NTNCWS shall reapply for a monitoring waiver in each subsequent compliance period. A CWS or NTNCWS which receives a monitoring waiver is not required to monitor for a synthetic organic chemical during the term of the waiver. The Department may grant a monitoring waiver, including under the centralized monitoring program, as follows:
1. No change
 2. Monitoring ~~waiver~~ waivers based upon vulnerability assessment: the Department may grant a monitoring waiver because a CWS or NTNCWS is determined to be nonvulnerable, based upon the results of a vulnerability assessment. The Department shall consider the following factors in making the waiver determination:
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 3. The Department may grant a waiver to a CWS or NTNCWS which is subject to the centralized monitoring program and those systems shall not be required to request a waiver.

R18-4-219. Sample Compositing

- A. No change
B. No change
C. Public water systems serving more than 3300 persons may composite samples from sampling points within a single system. Public water systems serving 3300 or fewer persons may composite samples from sampling points in different public water systems. The Department may composite samples for a CWS or NTNCWS which is subject to the centralized monitoring program as prescribed in this section.

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- D. A public water system, or for those systems subject to the centralized monitoring program, the Department, shall take follow-up samples if any of the following occurs:
1. No change
 2. No change
 3. No change
 4. No change
- E. No change

R18-4-224. The centralized monitoring program

- A. A public water system which serves 10,000 or fewer persons shall participate in the centralized monitoring program. A public water system which determines that its participation is not required shall submit, within 60 days of receiving the notice of participation in the centralized monitoring program, that portion of the most recent census provided by the Arizona Department of Economic Security, Research Administration, Population Statistics Unit. Each year, the water system shall report the population served as of December 31 of the previous year, to the Department by March 15.
- B. A public water system which serves more than 10,000 persons may participate in the centralized monitoring program. The public water system shall notify the Department in writing, of its intention to participate in the centralized monitoring program. The public water system shall notify the Department at least 1 year in advance of its assigned monitoring year, except for a public water system with an assigned monitoring year of 1998 or 1999. A public water system with an assigned monitoring year of 1998 shall notify the Department by March 15, 1998. A public water system with an assigned monitoring year of 1999 shall notify the Department by September 30, 1998. Participation shall begin at the start of the assigned monitoring year for the public water system, subject to the payment of required fees.
- C. A public water system which serves more than 10,000 persons may discontinue participation in the centralized monitoring program by notifying the Department, in writing, up to 1 year before the end of its assigned monitoring year.
- D. Under the centralized monitoring program, the Department shall conduct monitoring for all inorganic chemicals listed in R18-4-206, R18-4-401 and R18-4-402 except nitrate, nitrite and asbestos; all volatile organic chemicals listed in R18-4-211 and R18-4-404, and all synthetic organic chemicals listed in R18-4-215 and R18-4-405.
- E. A public water system which has not received notice of its monitoring schedule by October 1 in its assigned monitoring year, shall notify the Department in writing within 10 business days.
- F. The public water system shall retain responsibility for compliance with the public notice requirements of R18-4-105.
- G. The public water system shall notify the Department by March 15 of each year of any ownership changes, the correct mailing address, the name of the person to whom billing is to be addressed, and the number of meters or service connections of each size that the public water system had on December 31 of the previous year.
- H. Sampling by the Department shall be contingent upon the availability of funds in the Centralized Monitoring Fund to pay the costs of the centralized monitoring program.

R18-4-225. Fees for the centralized monitoring program

- A. A public water system which serves 10,000 or fewer persons shall pay fees annually to the Department for costs incurred by the Department under the centralized monitoring program.
- B. The Department shall calculate the annual unit fee as follows:
1. Determine the annual program budget.

2. Determine the total number of meters or service connections of each size for all participating public water systems.
3. Multiply each total generated in paragraph 2 above by the meter weight for that size meter given in Table A.
4. Add all of the results in paragraph 3.
5. Divide the program budget by the result generated in paragraph 4.
6. The resulting unit fee shall not exceed \$7.00 per 3/4 inch or less service connection or meter.

Table A

Meter Size	Maximum Flow Rate (GPM)	Meter Weight
≤ 3/4"	30	1.00
1"	50	1.67
1½"	100	3.33
2"	160	5.33
3"	300	10.00
4"	500	16.67
6"	1000	33.33
≥8"	1600	53.33

- C. The Department shall assess a total fee to the public water system, calculated as follows:
1. Multiply the meter weight by the number of meters or service connections of each size that were capable of providing water as of December 31, preceding the billing date.
 2. Add the results for each category.
 3. Multiply the result in paragraph 2 by the unit fee.
- D. A public water system which serves more than 10,000 persons and which chooses to participate in the centralized monitoring program shall pay all monitoring fees for the entire compliance period prior to commencement of any compliance monitoring by the Department.
- E. The Department shall use fees received to cover costs incurred by the Department for the centralized monitoring program. All unexpended monies in the fund at the end of each fiscal year shall remain in the fund and the Department shall use the fund balance, and any other funds provided by the legislature, to calculate the per unit fee charged under the centralized monitoring program for the subsequent fiscal year budget.

R18-4-226. Collection and Payment of Fees

- A. The public water system shall collect the fees from its customers and forward the fees to the Department in accordance with A.R.S. § 49-360(D). The participating public water systems shall determine the method for collecting the required fees.
- B. The Department shall mail an invoice for the fees to the water system annually. The water system shall pay the invoiced amount to the Department, at the address listed on the invoice, by the indicated due date. The water system may divide payment of the fees into 4 equal quarterly payments, the 1st of which shall be made by the indicated due date, and shall be accompanied by a written notice to the Department that a quarterly payment option has been chosen.
- C. The Department may make refunds or make billing corrections for a system which can demonstrate an overpayment, an error in the amount invoiced or in the number or size of meters billed. The water system shall send a written request for refunds or corrections to the Department, at the address on the invoice, within 90 days of the invoice date.
- D. The Department may verify the number and size of meters, or if unmetered, the number of service connections.
- E. The Department shall not waive required fees.

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ARTICLE 4. SPECIAL MONITORING REQUIREMENTS

R18-4-401. Special Monitoring Requirements for Sulfate

- A. ~~All~~ A community water systems [CWS] and nontransient, noncommunity water system [NTNCWS] shall conduct monitoring for sulfate. Under the centralized monitoring program prescribed in Article 2 of this Chapter, the Department may conduct compliance monitoring on behalf of the CWS or NTNCWS for sulfate.
- B. No change
- C. No change
- D. A CWS or NTNCWS may apply for a waiver from sulfate monitoring requirements. The Department may waive monitoring requirements for sulfate at a sampling point if previous analytical results are available which indicate that the concentration of sulfate does not exceed 250 mg/L, provided the monitoring data was collected after January 1, 1990. The Department may grant a waiver to a CWS or NTNCWS which is subject to the centralized monitoring program and those systems shall not be required to request a waiver. The Department's decision to waive sulfate monitoring requirements shall be in writing.
- E. No change
- F. No change

R18-4-402. Special Monitoring for Sodium

- A. Each community water system [CWS] shall monitor for sodium. Under the centralized monitoring program, the Department may conduct monitoring on behalf of the CWS for sodium.
- B. No change
- C. No change

R18-4-404. Special Monitoring for Unregulated Volatile Organic Chemicals

- A. Each community water system [CWS] and nontransient, noncommunity water system [NTNCWS] shall ~~conduct monitoring~~ monitor for the following unregulated volatile organic chemicals for which maximum contaminant levels have not been established: However, under the centralized monitoring program, the Department may conduct monitoring on behalf of the CWS or NTNCWS for the following unregulated volatile organic chemicals for which maximum contaminant levels have not been established:
1. Bromobenzene
 2. Bromodichloromethane
 3. Bromoform
 4. Bromomethane
 5. Chlorodibromomethane
 6. Chloroethane
 7. Chloroform
 8. Chloromethane
 9. o-Chlorotoluene
 10. p-Chlorotoluene
 11. Dibromomethane
 12. m-Dichlorobenzene

13. 1,1-Dichloroethane
14. 1,3,-Dichloropropane
15. 2,2-Dichloropropane
16. 1,1-Dichloropropene
17. 1,3-Dichloropropene
18. 1,1,1,2-Tetrachloroethane
19. 1,1,2,2-Tetrachloroethane
20. 1,2,3,-Trichloropropane

- B. No change
- C. No change
- D. No change
- E. No change
- F. A CWS or NTNCWS may apply for a waiver from the monitoring requirements for the unregulated volatile organic chemicals listed in this section. The Department may grant a waiver based upon the criteria specified in R18-4-212(L). The Department may grant a waiver to a CWS or NTNCWS which is subject to the centralized monitoring program. Those systems shall not be required to request a waiver.
- G. No change

R18-4-405. Special Monitoring for Unregulated Synthetic Organic Chemicals

- A. Each community water system and nontransient, noncommunity water system shall ~~conduct monitoring~~ monitor, and, under the Centralized monitoring program, the Department may monitor, for the following unregulated synthetic organic chemicals for which maximum contaminant levels have not been established:
1. Aldicarb
 2. Aldicarb sulfone
 3. Aldicarb sulfoxide
 4. Aldrin
 5. Butachlor
 6. Carbaryl
 7. Dicamba
 8. Dieldrin
 9. 3-Hydroxycarbofuran
 10. Methomyl
 11. Metolachlor
 12. Metribuzin
- B. No change
- C. No change
- D. No change
- E. Each CWS and NTNCWS may submit a written request to the Department for a waiver from the monitoring requirements for unregulated synthetic organic chemicals listed in this section. Use waivers and susceptibility waivers for unregulated synthetic organic chemicals listed in this section may be granted based upon the waiver criteria specified in R18-4-216(M). The Department may grant a waiver to a CWS or NTNCWS which is subject to the centralized monitoring program and those systems shall not be required to request a waiver.
- F. No change

NOTICE OF PROPOSED RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

PREAMBLE

1. Sections Affected Rulemaking Action
R19-3-708 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. § 5-504(B)
Implementing statute: A.R.S. § 5-513(A)(3)(c)

3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Geoffrey Gonsler, Executive Director
Address: State Lottery Commission
4740 East University
Phoenix, Arizona 85034
Telephone: (602) 921-4514
Fax: (602) 921-4488

4. An explanation of the rule, including the agency's reasons for initiating the rule:
A.A.C. R19-3-701 through R19-3-709 sets forth provisions unique to the conduct of the Arizona Lottery's instant games. These rules explain the common components of instant games: game profiles, game playstyles, how to identify a winning ticket, the procedures required to claim prizes and the claim period, ticket ownership, ticket validations, termination of an instant game, and disputes concerning a ticket. This amendment will implement the provisions of A.R.S. § 5-513(A)(3)(c), which allows the Arizona Lottery to determine and collect a fee to defray the expenses incurred by the agency in processing the assignment of a prize.

5. 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

6. The preliminary summary of the economic, small business, and consumer impact:
These rules allow the Lottery to introduce new instant games in a more timely manner, thus providing the state and retailers with a potential increase in sales revenue. This amendment implements statutory authority to collect fees reimbursing the Lottery for costs associated with processing requests by Lottery winners who sell their prize. The fee will have a significant positive effect on Lottery expenses and a negligible effect on the companies that will pay the fee.

7. 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: Geoffrey Gonsler, Executive Director
Address: State Lottery Commission
4740 East University
Phoenix, Arizona 85034
Telephone: (602) 921-4514
Fax: (602) 921-4488

8. 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:
Date: January 16, 1998
Time: 10 a.m.
Location: Arizona State Lottery
4740 East University
Phoenix, Arizona 85034
Nature: Oral Proceeding (close of the record is 5 p.m., Thursday, January 15, 1998, for written comments and at the end of the oral proceeding for verbal comments.)

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9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable
10. Incorporations by reference and their location in the rules:
Not applicable
11. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

ARTICLE 7. DESIGN AND OPERATION OF INSTANT
GAMES

Section

R19-3-708. Procedure for Claiming Prizes

ARTICLE 7. DESIGN AND OPERATION OF INSTANT
GAMES

- A. To claim a low- or mid-tier instant game cash prize, a claimant may take the ticket or prize voucher to a retailer or to a Lottery office, or mail the ticket or prize voucher to a Lottery office or validation. Cash prizes awarded in a pull-tab instant game shall be paid by the retailer who sold the ticket. If the claim is verified and the ticket or prize voucher is validated as a winning ticket, the Arizona State Lottery or the retailer shall make payment of the amount due to the claimant. If the retailer does not verify the claim, validate the ticket or prize voucher, or pay the amount due, the claimant may take or mail the ticket or prize voucher to a lottery office for verification and validation. If the ticket or prize voucher is validated in accordance with these rules, the claimant shall receive payment.
- B. To claim a high-tier instant game prize, the claimant shall sign the back of the ticket or prize voucher, and take or mail the ticket or prize voucher and claim form to a Lottery office for a validation. If the claim is verified and the ticket or prize voucher is validated as a winning ticket, the Arizona State Lottery shall make payment of the amount due to the claimant. The claimant shall be notified if the ticket or prize voucher is not validated as winning ticket by the Arizona State Lottery.
- C. If a prize winner dies prior to receiving full payment, the Arizona State Lottery shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.
- D. If a prize winner assigns the remainder of any annuity, or a portion of the annuity, pursuant to an appropriate judicial order under the provisions of A.R.S. § 5-513, the prize winner shall pay the Arizona Lottery \$1000 per assigned prize within 15 calendar days of court approval of the assignment.
- ~~D-E.~~ The Arizona State Lottery shall be discharged of all liability upon payment of the prize money.
- ~~E F.~~ Payment of prize money shall not be accelerated ahead of its normal date of payment.