

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 1. DEPARTMENT OF ENVIRONMENTAL QUALITY ADMINISTRATION

PREAMBLE

1. Sections Affected

Rulemaking Action

Article 5	New Article
R18-1-501	New Section
R18-1-502	New Section
R18-1-503	New Section
R18-1-504	New Section
R18-1-505	New Section
R18-1-506	New Section
R18-1-507	New Section
R18-1-508	New Section
R18-1-509	New Section
R18-1-510	New Section
R18-1-511	New Section
R18-1-512	Reserved
R18-1-513	New Section
R18-1-514	Reserved
R18-1-515	Reserved
R18-1-516	New Section
R18-1-517	New Section
R18-1-518	New Section
R18-1-519	New Section
R18-1-520	New Section
R18-1-521	New Section
R18-1-522	New Section
R18-1-523	New Section
R18-1-524	New Section
R18-1-525	New Section
Table 1	New Table
Table 2	New Table
Table 3	New Table
Table 3-N	New Table
Table 3-S	New Table
Table 4	New Table
Table 5	New Table
Table 5-N	New Table
Table 5-S	New Table
Table 6	New Table
Table 6-E	New Table
Table 6-N	New Table
Table 6-S	New Table
Table 7	New Table

Arizona Administrative Register
Notices of Final Rulemaking

Table 7-N	New Table
Table 7-S	New Table
Table 8	New Table
Table 9	New Table
Table 10	New Table
Table 11	New Table
Table 12	New Table
Table 13	New Table
Table 14	New Table
Table 15	Reserved
Table 16	New Table
Table 17	New Table
Table 18	New Table
Table 19	New Table
Table 19-S	New Table
Table 20	New Table
Table 21	New Table
Table 22	New Table

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. §§ 41-1003, 49-104, 49-203, and 49-425

Implementing statute: A.R.S. § 41-1076(A)

3. The effective date of the rules:

The effective date of the rules shall be 2 weeks after the notice of final rulemaking is filed with the secretary of state (August 14, 1999). The reason for this provision is to allow the Department and those members of the public governed by this rule sufficient notice of the actual effective date to make proper and reasonable preparation to act under the rule. The Department has given assurances to the public since the proposed rule was published October 23, 1998, that the rule would specify a 2-week delay to allow sufficient advance notice of the actual effective date of this rule.

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

Notice of Rulemaking Docket Opening: 3 A.A.R. 1878, July 11, 1997.

Notice of Rulemaking Docket Opening: 4 A.A.R. 3050, October 16, 1998.

Notice of Proposed Rulemaking: 4 A.A.R. 3089, October 23, 1998.

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

Name: David J. Armacost or Martha Seaman

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

Telephone: (602) 207-2222 in the Phoenix area or 800-234-5677, Ext. 2225, in other Arizona area

Fax: (602) 207-2251

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

CONTENTS of this explanation of the rule:

A. Introduction

B. Summary

C. Background

- 1) Article 7.1
- 2) The "time-frames" concept
- 3) Licensing application review delays
 - a. License application processing models
 - b. Licensing review delay causes
- 4) The economics of licensing
- 5) The Massachusetts experience

D. Department response

Arizona Administrative Register
Notices of Final Rulemaking

- 1) The statutory imperative
- 2) New documents required by Article 7.1
- 3) Public participation and a flexible rule
- 4) Rule text and policy alternatives contained within this rule
 - a. Primary policy alternatives
 - b. Applicability rule text alternatives
 - c. License category rule text alternatives
 - d. Licensing time-frame rule text alternatives
 - e. Licensing time-frame agreements rule text alternatives
 - f. Licensing time-frames suspension rule text alternatives
- 5) Oral proceedings and comments

E. Statutory objectives

- 1) Only certain licenses administered by the Department are subject to Article 7.1 licensing time-frames requirements
 - a. Permission required by law
 - b. Licenses created by notification
 - c. General licenses
 - d. Licenses granted at the Department's initiative
 - e. Licenses granted by default
 - f. Enforcement licenses
 - g. Licenses issued by political subdivisions
 - h. Compliance licenses
 - i. Contractual licenses
 - j. License revocation, suspension, annulment, and withdrawal
 - k. Retroactive effect
 - l. Licenses issued within 7 days
- 2) Structure of time-frames licensing categories must be responsive to applicants
- 3) Timely licensing decisions must be based on sufficient information
 - a. License application submission
 - b. Administrative completeness review (ACR) time-frame
 - (1) Notice of administrative deficiencies
 - (2) Presumptive administrative completeness
 - (3) Notice of administrative completeness
 - (4) Submission of information from other agencies
 - c. Substantive review (SR) time-frame
 - (1) Public notice and hearings
 - (2) Requests for additional information during the SR time-frame
 - (3) Requests for additional information during a time-frame extension
 - d. Overall time-frame
 - e. Counting of time-frame days
 - f. Suspension of time-frames
 - (1) Failure to respond to requests for information
 - (2) Failure to pay application fees
 - (3) Substantial change to the application
 - (4) Emergencies and upset conditions
 - g. Licensing denials and administrative appeals of licensing decisions
 - h. Sanctions
- (1) Refunds and fee excusals
- (2) Penalties
- (3) Annual compliance reporting
- (4) The licensing process must remain flexible to the maximum extent possible

Arizona Administrative Register
Notices of Final Rulemaking

- a. Supplemental request agreements
 - b. Time-frame extension agreements
 - c. Opt-in agreements
 - d. Other licensing agreements
- 5) A time-frame rule must take into account 8 statutory considerations
- a. Licensing subject matter complexity
 - b. Agency resources
 - c. Economic impact of delay on the regulated community
 - d. Public health and safety
 - e. Use of volunteers
 - f. General licenses
 - g. Agency cooperation
 - h. Agency flexibility

F. Rule Impact Reduction Analysis

- 1) The Arizona class of small businesses
- 2) Subsidies and cost shifting
- 3) Compliance, reporting, scheduling, and deadline requirements
- 4) Performance versus design or operational standards
- 5) Rule exemption for small businesses
- 6) Findings

G. Section-by-Section Explanation of the Rule

- 1) Introduction
- 2) Explanation of the rule

H. Category-by-Category Explanation of the License Categories on the Tables

- 1) Table 1: Class I air licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements
- 2) Table 2: Class II air licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements
- 3) Tables 3, 3-N, and 3-S: Open burning licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements
- 4) Table 4: Vehicle emission licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements
- 5) Tables 5, 5-N, and 5-S: Safe drinking water construction licenses
- 6) Tables 6, 6-E, 6-N, and 6-S: Wastewater construction licenses
- 7) Tables 7, 7-N, and 7-S: Subdivision construction licenses
- 8) Table 8: Safe drinking water monitoring and treatment licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements
- 9) Table 9: Water and wastewater facility operator licenses
- 10) Table 10: Water quality licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements
- 11) Table 11: Surface water licenses
- 12) Table 12: Solid waste licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements
- 13) Table 13: Special waste licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements
- 14) Table 14: Landfill licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements

Arizona Administrative Register
Notices of Final Rulemaking

- 15) Table 15: Medical waste licenses
- 16) Table 16: Recycling licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements
- 17) Table 17: Hazardous waste licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements
- 18) Table 18: Underground storage tank licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements
- 19) Tables 19 and 19-S: WQARF remediation licenses
- 20) Table 20: Voluntary program remediation licenses
- 21) Table 21: Pollution prevention licenses
 - a. Licenses subject to Article 7.1 licensing time-frames requirements
 - b. Licenses not subject to Article 7.1 licensing time-frames requirements
- 22) Table 22: Multi-program licenses

A. Introduction.

Today's rule determines how long the Department may delay a denial of an unapprovable application in each of the 476 license categories identified in this rule. Department experience is that approvable applications are approved as soon as they are determined to be approvable. The Department does not expect this to change under this rule. Prior to this rule, the Department often delayed licensing decisions on unapprovable applications while waiting for applicants to make their applications approvable. In accordance with Arizona law, this must now come to an end. This rule, however, contains numerous provisions designed to offer the maximum flexibility and assistance possible under the law for the benefit of applicants. This, in turn, will provide applicants opportunities to make their applications approvable rather than face summary denial for failure to submit complete, approvable applications on day 1 of the application review period.

Article 7.1, A.R.S. §§ 41-1072 through 41-1078 (Article 7.1), of the Administrative Procedure Act (APA) requires all state agencies to adopt licensing time-frames for every license, approval, registration, charter, or similar form of permission they issue. Once adopted, failure by an agency to grant or deny a license application within the overall time-frame for that application may subject the agency to sanctions of refunds, fee excusals, and penalties. The Department of Environmental Quality (Department) issues some of most complex licenses issued by the state. Some of these license applications can incur fees in the \$10,000 to \$50,000 range. Applications for these licenses often require highly technical substantive review of novel or unusual proposals presented by applicants for Department approval. Many of these licenses are issued by programs that the Legislature requires to be funded from license fees. It follows that implementation of Article 7.1 has a potential to disrupt Department revenues that in turn would disrupt Department programs and, consequently, the ability of Department programs to continue to process future applications.

The legislative history of Article 7.1 makes it clear that the Legislature directed agencies to revise their licensing processes specifically in order to reduce applicant uncertainty in the process and generally to make the various licensing processes more responsive to the needs of applicants. To this end, the Legislature expects the Department to work closely with the regulated community in setting time-frames leading to sanctions for the various licenses and, if possible, bring forward a rulemaking on the subject to the governor's regulatory review council (GRRC) with the full support of the regulated community. While working to obtain strong support in the regulated community in setting time-frames, the Legislature also expects the Department not to lose sight of its many statutory mandates to operate the various licensing, compliance, and enforcement programs. This means the Department must balance the desires of applicants for certainty, low fees, and rapid license approvals with the needs of the programs to remain effective and financially viable by insuring that the implementation of Article 7.1 not become an unmanageable license application review process with disastrous effects on the Department, the regulated community, and the people of Arizona.

It follows that the Department must view matters that may adversely impact fee-funded programs with great interest. License fees for such programs are set initially at (usually) optimistically low rates with the hope that such fees will be sufficient to fund the programs. Often, this turns out not to be the case. Article 7.1 adds a new element of uncertainty into this mix with its complex provisions for formal written notifications, new bases of appeal, refunds, fee excusals, and penalties. It is not statistically possible for the Department to achieve a zero refund rate under Article 7.1's requirements. This means that from time to time, refunds will occur. One central issue raised by that fact is to what extent does Article 7.1 intend that a fee submitted with a license application become less like the traditional concept of a license fee and more like a purchased chance to a free license with the losers (those who receive timely approvals or denials) eventually paying a higher fee to subsidize the winners (those who do not receive timely approvals or denials). That this has the potential to operate as a license lottery is clear. How the Department should

implement Article 7.1 to avoid the worst effects of a license lottery is not so clear. The primary goal of the Department, however, must be to assess and reduce the risks created by this Article to further underfund Department programs.

Underfunding of Department programs is an important issue and affects the regulated community in several ways, all adverse. First, underfunding exacerbates personnel difficulties. Annual employee turnover rates in some Department programs already is high. Employee replacement and training costs are also high, especially for the more technical and specialized engineering positions involved in license application review.

Second, underfunding deprives the Department of the ability to provide fair, reasoned, and reasonable review of permit applications. Each year, the Legislature enacts statutes revising and adding to the Department's duties. Statutes enacted in earlier years also continue to provide sources of new obligations. The Department, in response, is obligated to revise rules and procedures and set up new programs as required. All this requires the application of Department resources; often significant resources. Underfunding means that necessary resources will not be available and will result in both short- and long-term adverse impacts on the ability of program staffs to provide proper consideration of license applications. Underfunding also means that the Department is unable to respond adequately to normal variations in the volume and complexities of license applications beyond the control of the Department. When this inability to respond in a timely manner results directly in causing further underfunding due to the refund, fee excusal, and penalty provisions of Article 7.1, it is not unreasonable to predict that a cycle of untimely review and resulting sanctions could likely send a fee-funded program into a financial spiral. The most likely results would be an increasing number of under-reviewed or unreviewed license applications at best, or the inability by program staff to accept any new license applications at worst. Either would be a case of Department failure in its obligations to provide applicants fair, reasoned, and timely review of license applications.

Finally, underfunding of fee-funded programs inevitably will create pressures to increase fees. This result is unavoidable and can only be viewed as detrimental by the regulated community. This means that the more sanctions incurred by a fee-funded program, the more pressure will erupt to raise fees in that program. For all these reasons, Article 7.1 probably places an additional obligation on the Department in regards to fee-funded programs to use its best efforts not to incur sanctions if only to reduce the pressure to increase fees on the class of licensees under that program and to maintain a financially viable program so as to service future prospective licensees.

On the other hand, because of these pressures, Article 7.1 also presses a number of interesting changes that may well improve the Department's current licensor-licensee relationship. Current Department practice in reviewing Model E and F license applications (see § 6(C)(3)(a) for a discussion on license processing models) is often to ignore licensing decision deadlines in statute or rule if their observance would result in a decision to deny. Rather, the Department will usually continue to work with an applicant to fashion an approvable application. Although this approach can consume significant additional Department resources, it has been of benefit to applicants and probably has reduced the need for the Department to pursue enforcement action in the matter. Article 7.1 changes this. Department resources must now shift somewhat with less going to applicants in achieving an approvable license application and more going towards enforcement for failure to obtain a license. This statutory shift is sure to encourage applicants to be more attentive to their applications in the 1st instance. The result of increased applicant attention should allow the Department generally to reach decisions to grant licenses earlier than is now the case. This may well save time and money both for applicants and the Department's licensing programs.

The Department has examined Article 7.1 in great detail, conducted (and will continue to conduct) extensive internal analyses of all licensing programs, examined similar efforts by other agencies, and made a series of preliminary decisions regarding its obligations and discretion to act under Article 7.1. These, the Department presented in the detailed October 23, 1998, notice of proposed rulemaking for review and comment by the public. The Department will continue to study and evaluate the matter after the effective date of this rule, make economic analyses of the results of implementation under Article 7.1, hold public workshops to ascertain public perceptions and expectations regarding implementation, and further define its obligations and discretion to act under the Article based on actual experience under this rule. The Department has determined that Article 7.1 contains a number of important ambiguities and direct contradictions that, if not addressed squarely, could seriously undermine the ability of the Department to review license applications and jeopardize the integrity of the various compliance and enforcement programs. The Department's obligations to the Legislature, the regulated community, and the people of Arizona to maintain itself as a financially viable agency able to carry out the licensing and enforcement duties assigned to it means that the Department must take an active role in the understanding and implementation of Article 7.1.

B. Summary.

This rule prescribes a set of uniform definitions and procedures concerning the operation of the licensing time-frame requirements of Article 7.1 of the APA. These uniform definitions and operations will apply to all licensing programs administered by the Department. A series of tables appended to the rule contain 5 specific categories of information

Arizona Administrative Register
Notices of Final Rulemaking

regarding each license: (1) the license identity including a name and description, (2) the number of business days identified for administrative completeness review, (3) the number of business days identified for substantive review, (4) whether the license is subject to sanctions (refunds, fee excusals, and penalties), and (5) an identification of the specific application components required by the Department in order to determine whether to grant a license. Only licenses identified on the tables will be subject to Article 7.1 requirements and only applications 1st received after the effective date of the rule will be subject to its sanctions and reporting requirements.

The 1st 2 sections of this rule govern definitions and applicability. The next 5 sections prescribe the starting, suspending, resuming, ending, and expiration of the 4 time-frames identified in Article 7.1: administrative completeness review, substantive review, overall, and extension. The next 5 sections prescribe the terms and operation of 5 types of bilateral time-frame agreements offered by the Department for the benefit of applicants that can affect the running of the time-frames: pre-application, supplemental request, time-frame extension, changed application, and opt-in agreements. The next 3 sections describe a number of unilateral actions that the Department may take. The next 6 sections describe a number of general provisions governing the effect of certain Department and applicant actions on the running of the time-frames and the determination of sanctions. Finally, all licenses governed by the rule are listed in the tables referenced in the last section.

This rule represents an overlay on, and operates independently from, existing statutory and regulatory application review times for the various licenses. This anomaly of independent running of concurrent review times is unavoidable due to the various suspension and extension provisions required in the counting of days by Article 7.1 but not applicable to the counting of days under the various existing statutory and regulatory review times contained in other statutes and their implementing rules.

The primary purpose of the running of the time-frames in Article 7.1 is to determine when and how sanctions occur. This means, in practice, that cases will arise when a statutory review time contained in A.R.S. title 49 has expired without the Department issuing a decision whether to grant or deny an application but, due to the operation of the counting, suspension, and extension provisions of Article 7.1, no sanctions are yet due. What this rule does is describe with specificity the point beyond which the failure of the Department to make that decision is so late that sanctions result.

The operation of Article 7.1 will force 2 important changes in current Department practices. First, in order to reduce the risk of sanctions, the Department must record and track all applications with a level of attention and diligence not necessary (or even financially prudent) in the past. This means the diversion of a certain amount of Department resources to develop, operate, and maintain the necessary application tracking infrastructure and training activities. Second, the sanction provisions will now force the Department to deny incomplete or nonresponsive applications rather than spend whatever time may be necessary to work with an applicant to fashion an approvable application as is often the case now, especially in response to novel, unusual, or highly complex application proposals. The Department has balanced this new statutory imperative to deny incomplete applications with several moderating provisions in the rule that may allow applicants an opportunity to correct or modify their applications in lieu of summary denials and forfeitures of fees paid.

C. Background.

The 42nd Legislature established the joint study committee on regulatory reform and enforcement (Study Committee) in 1995. The Study Committee issued its final report in December 1995 and the report's recommendations became the basis of Senate Bill (SB) 1056, a bill introduced in the 2nd regular session (1996) of the 42nd Legislature. Portions of that bill became law as Article 7.1, licensing time-frames, a new article added to the administrative procedure act. Several modifications to Article 7.1 were enacted into law through SB 1034, a bill introduced in the 2nd regular session (1998) of the 43rd Legislature, and made effective August 21, 1998.

1) Article 7.1.

Article 7.1 requires all state agencies to have in place final rules by December 31, 1998 "establishing an overall time-frame during which the agency will either grant or deny each type of license that it issues." A.R.S. § 41-1073(A). Licenses normally issued within 7 days of receipt of initial application are exempt. A.R.S. § 41-1073(D)(2). The rule "shall state separately the administrative completeness review time-frame and the substantive review time-frame" for each license type. A.R.S. § 41-1073(A). These 3 time-frames (overall, administrative completeness, and substantive review) represent 3 separate clocks that run concurrently or consecutively (and perhaps independently) and may be suspended under certain circumstances. Article 7.1 defines some, but not all, aspects of the starting, suspending, resuming, expiration, and ending of each time-frame.

Failure to grant or deny a license by "the expiration of the overall time-frame or the time-frame extension" results in a refund of all fees paid by the applicant plus an excusal of additional fees due but not yet paid. A.R.S. § 41-1077(A).

In addition, an agency must pay a penalty to the general fund equal to 1% of the “total fees received by the agency for reviewing and acting on the application for each license that the agency has not granted or denied on the last day of each month after the expiration of the overall time-frame or time-frame extension for that license.” A.R.S. § 41-1077(B). The penalty must come from the same “agency fund in which the application fees were originally deposited.” A.R.S. § 41-1077(B). A license denial must be written and include a justification with references to the relevant statutes or rules and an explanation identifying (1) appeal rights, (2) the number of days to file a protest, and (3) the name and telephone number of an “agency contact person who can answer questions regarding the appeal process.” A.R.S. § 41-1076.

The Department must report its level of compliance with Article 7.1 to the governor's regulatory review council (GRRC) by September 1 of each year for the previous fiscal year. A.R.S. § 41-1078(A). GRRC must, in turn, report on all agencies' compliance by December 1 of each year to the governor, the president of the senate, the speaker of the house and the cochairs of the administrative rules oversight committee (AROC). A.R.S. § 41-1078(B).

2) The “Time-frames” Concept.

Article 7.1 defines a method to determine sanctions for agency inaction through the operation of “time-frames.” This does not represent a new mandate to approve licensing applications within certain time limits or to adjust existing licensing application review times defined in statute or rule. Rather, it provides a means to count days within certain review periods or “time-frames” leading to sanctions on a licensing state agency if those time-frames expire prior to an agency decision to either grant or deny the license. Article 7.1 does this by defining the starting, suspending, resuming, ending, and expiration of 4 “time-frames”: administrative completeness review, substantive review, overall, and extension.

This represents a different concept than previously defined statutory or regulatory licensing review times. Article 7.1 directs state agencies to promulgate rules implementing the Article's requirements but does not directly require or suggest that existing licensing review times be adjusted other than as necessary to accommodate the incorporation of the time-frames.

3) Licensing Application Review Delays.

Not all current Department licensing programs have reputations for timely action. On the other hand, some do; the vehicle emissions, water and wastewater operator certification, and solid waste landfill programs, for example. Some programs have received varying degrees of criticism for failing to make timely licensing decisions. Some license applications have remained under review for significant periods long exceeding normal review times. The Department has analyzed the circumstances of these delays and has determined that license review and processing requirements follow 6 general models and that delays result from 5 general causes. The Department has used these determinations to shape several primary features of this rule. This analysis begins with a description of license processing model types and then proceeds to a discussion of delay causes.

a. License application processing models.

Six models emerge as relevant for study. The models are based on the extent and nature of interaction required between the licensee and the Department within the context of Article 7.1. They range from no interaction (Model A), notice by licensee with no Department response required (Model B), standard application with no Department substantive review prior to issuing license (Model C), standard application with Department substantive review (Model D), to nonstandard application with Department substantive review either without a public hearing (Model E) or with a public hearing on a proposed permit (Model F). The Department has determined that Article 7.1 requires the Department to promulgate time-frames and report compliance only for Models C, D, E, and F and that only Models D, E, and F are subject to Article 7.1's sanctions of refunds, fee excusals, and penalties. Figure 1 summarizes the main points of the 6 models.

Fig. 1: License Processing Models

Model	Required From Applicant	Nature of Application Components	Department "Issues" License	Substantive Review	Public Hearing	Example
A	--	--	No	No	No	Classic general permit.
B	Notice	--	No	No	No	Asbestos NESHAP notification.
C	Application	Uniform	Yes	No	No	Drywell registration.
D	Application	Uniform	Yes	Yes	No	Wastewater facility operator certification.
E	Application	Nonuniform	Yes	Yes	No	Special waste facility plan type III substantial change approval.
F	Application	Nonuniform	Yes	Yes	Yes	Class I air permit.

Model C is the simplest license type subject to Article 7.1: uniform application components with no substantive review. The applicant has no control over the type or extent of the application components (the information and other items required). All applicants must submit exactly the same components. The Department performs only clerical verification that the information has been submitted; no substantive review (qualitative evaluation) is done. The Department then issues some form of acknowledgment to the applicant that a license has issued.

One example is the dry well registration required by A.R.S. § 49-322 and shown on Table 10 as water quality license category no. 105. Applicants desiring this license must submit an application form that requires the same type of information from all applicants. The Department performs only a clerical verification that the application is complete; no qualitative evaluation (substantive review) of the information submitted is done. The Department then registers the dry well and informs the applicant of the registration. The applicant obtains the license only upon receipt of the registration confirmation; operating a dry well without registration is in violation of the law.

Article 7.1 requires the Department to adopt time-frames for this licensing model and report on Department compliance annually to GRRC but prescribes that no Article 7.1 sanctions will result from Department failure to grant or deny this type of license before the expiration of the overall time-frame; even if the license requires a fee. The Department administers only a few license categories of this model and only a relatively low number of licenses within those categories.

Model D. Model D represents the standard model: uniform application components with substantive review. As in Model C, the applicant has no control over the type or extent of the application components. The Department, however, performs both clerical verification that the information has been submitted (administrative completeness) as well as a qualitative evaluation (substantive review) that the information meets certain criteria sufficient to entitle the applicant to the license. An example is the wastewater treatment or collection facility operator new certification required by A.R.S. § 49-361 and shown on Table 9 as water and wastewater operator license category no. 1. Unlike Model C, Article 7.1 sanctions will result from Department failure to grant or deny a license of this type before the expiration of the overall time-frame if the license requires a fee and that fee is deposited into a Department fund. This license type forms the standard model for most agencies that issue licenses. A driver's license issued by the department of motor vehicles or a professional occupation license issued by the board of technical registration are other typical examples. This Department, however, administers only a limited number of license categories of this model. Within those categories, however, the Department issues a large number of individual licenses. Department performance in processing applications in these license categories is generally quite high, with many categories having no record of any late licensing decisions. This is because, as with a driver's license application, the public expects agencies to make summary decisions on Model D type licenses within a fixed period of time.

Model E is far more complex: non-uniform application components as necessary to support a rational substantive review of an applicant's proposal. A public comment period for a proposed permit may be required but not a public hearing. (In this case, if a public hearing is requested, the application automatically transfers to the model F category.) Here, the applicant has great freedom to propose alternative or novel methods to meet a compliance standard; sometimes the applicant is even permitted to propose the standard. Most license categories administered by the Department follow this model. Although this model places special and unpredictable burdens on the reviewer, it responds to important and compelling societal goals. It allows the applicant to explore a variety of compliance possibilities and

propose the 1 that makes the best financial, business, or personal sense as the applicant best determines. It follows that allowing an applicant to have such wide control over the nature of the application means increased uncertainty in predicting exactly how long review will be, especially in general terms as required by Article 7.1

Eliminating or restricting this model so as to realize a general desire to obtain absolute certainty beforehand in knowing exactly how long an application review will take is not a good policy choice. Greater certainty in this regard will pressure the Department to limit proposal options by applicants. This is a compromise that the Department is highly reluctant to follow. The field of environmental regulation is extraordinarily complex with new issues, ideas, and technologies arising continuously. Freezing the current state of these matters in rule just to obtain licensing review certainty of short rigid time-frames is sure to harm the regulated community and the public-at-large more than help it. Moreover, it is sure to shift the Department's focus more from prospective licensing to after-the-fact enforcement activities, another undesirable result. The Department administers a very large number of license categories of this model although within those categories, the Department issues only a relatively small number of individual licenses. Department performance in processing applications in these license categories is mixed. Complete applications received in the 1st instance tend to receive early approvals while incomplete, defective, or changing applications tend to remain under review for periods long in excess of periods identified in statute or rule. This is because the Department's experience has been that it tends to approve an application of this type as soon as it is made approvable by the applicant but will delay a denial on an unapprovable application sometimes indefinitely. This, of course, will change under this rule.

Model F is the most complex: non-uniform application components as necessary to support a rational substantive review of an applicant's proposal as in the Model E type but also with the addition of a public hearing on a proposed permit. This license processing model is the most unpredictable of all models because unexpected issues may arise at the hearing that require extensive reevaluation by the Department. Identification of such issues is, indeed, the primary purpose of a public hearing. Further, the underlying subject matter of these licenses tend to be the most complex of all license categories which is usually why a public hearing is required in the 1st place. Article 7.1 recognizes that a public hearing may be part of the licensing review process but does not expressly provide for an opportunity to reassess a proposed decision after the hearing. Not having this time is sure to work against all interests involved in the application and may now require an applicant to withdraw and resubmit a new application (and fee) if only to allow time to avoid a denial following a public hearing. The better policy is to allow the process to continue forward to a reasoned conclusion without resorting to the fiction of a new application just to avoid a denial on the part of the applicant or sanctions on the part of the Department. The Department administers a large number of license categories of this model although, within those categories, the Department issues only a small number of individual licenses. As with Model E licenses, Department performance in processing applications in these license categories is mixed. Complete applications received in the 1st instance tend to receive early approvals while incomplete, defective, or changing applications tend to remain under review for periods long in excess of periods identified in statute or rule.

On the one hand, Article 7.1 pressures the Department to provide greater certainty in predicting review times prospectively in rule. On the other hand, other statutes direct the Department to honor applicant-driven proposals for a great many of the licenses the Department issues. Still other statutes prohibit the Department from issuing these licenses by default, meaning that the Department must perform a complete and rational substantive review in response to appropriate application components before granting the license no matter the threat of sanctions (or it must deny the application). The Department must balance and harmonize all these completing statutory requirements.

b. Licensing review delay causes.

Internal review of its licensing procedures and experience due to this rulemaking effort has allowed the Department to analyze the causes of licensing review delays. Only a relatively small percentage of license applications experience delays beyond times identified in statute or rule. Those that do, however, tend to be the highly complex Model E and F types. The Department has determined that licensing review delays in program licensing activities tend to fall into 5 categories. The Department believes that the features of the rule should eliminate all but the 1st cause identified below.

Cause 1 is due to clerical failure to attend to the application and can occur in all license processing models. The application tracking system that the Department must implement to control its risk of sanctions under Article 7.1 should reduce delays due to this cause. Still, clerical inattention to an application will result in sanctions under Article 7.1, as it probably should.

Cause 2 is due to application components not being complete prior to substantive review and can occur in all license processing models. This is probably the major cause of delay found in the Department. Program statutes require, however, that it is clearly the applicant's burden to prepare and submit a complete application at the beginning of the process. Article 7.1 now requires the Department to aggressively identify incomplete applications and not let them proceed to substantive review; or, once in substantive review, not to let them proceed without a response to a compre-

hensive request for additional information. Article 7.1's time-frame suspension provisions is something not now available to most licensing programs that operate on strict calendar-day time limits with no suspension provisions. The ability to suspend the time under Article 7.1 should eliminate this as the most likely cause leading to the majority of late licensing decisions as it is at present.

Cause 3 is due to the Department acquiescing to the applicant's request to change application components and substitute a new proposal requiring additional review not indicated in the original application. This as a cause of delays usually occurs only in Model E and F license types although it might occur in Model D as well. This is usually the primary cause for delays in applications that have remained in review for very long periods in excess of times in statute or rule. This is especially true in programs that charge review fees by the hour. In the past, the Department has usually allowed applicants to change proposals at will. Article 7.1 now stops that practice by requiring applicants to submit all application components with certainty at the beginning of the process; no changes may be accommodated. Article 7.1 impliedly requires an applicant to withdraw and reapply if a change is desired. This rule offers an alternative to this requirement as shown in R18-1-511. If used, this allows the Department to take some or all of the review time and fees already expended on the original proposal and credit them to a new application by means of a changed application agreement in accordance with R18-1-511. Whether this option is used or not, changed applications as a cause for delay seems likely to disappear under Article 7.1.

Cause 4 is due to disagreements with the applicant concerning exactly what application components are necessary. This as a cause of delays occurs only in Model E and F license types because such disputes in Model C and D license applications almost always result in summary denials. Although this as a delay cause does not happen often, when it does it can result in considerable delay. Department practice usually has been to attempt to reach an amicable agreement with the applicant. Such interaction can result in the application reviewer spending a great deal of time with the applicant in an attempt to explain the necessity for the requested information; sometimes to no avail. Often, this can result in numerous defective resubmissions causing further extensive delays. Article 7.1 changes this. Under threat of sanctions, the Department can no longer afford to enter into protracted discussions with applicants concerning the necessity of requested information. This rule provides a method to resolve the matter in R18-1-520 which allows an applicant to give the Department formal notice of a dispute over application requirements which, in turn, allows the Department to accelerate the dispute to a final licensing decision subject to appeal. Whether appealed or not, the licensing decision will be made timely. This should eliminate such disagreements as a cause of delay in the future.

Cause 5 is due to the subject matter of the applicant's proposal being too complex, large, novel, or technically difficult to allow sufficient review within the review time limit. This as a cause of delays occurs only in Model E and F license types and occurs in only a few applications every year. This rule recognizes this and provides for both a standard and complex category in these instances. Applications fitting the complex category would then allow the Department additional time to complete the required review. Use of the complex category should eliminate this as a cause of delay (or lateness) in the future.

4) The Economics of Licensing.

The summary of the economic, small business, and consumer impact analysis for this rule follows at § 9 below. An introductory discussion, however, may be helpful in understanding the Department's general approach in developing this rule by outlining the Department's view of certain underlying principles in the licensing process, society's expectations in the outcomes of licensing activities, and the interplay between the 2. This is important so as to understand the Department's fundamental desire to avoid unintended or unexpected adverse effects on applicants as the Department implements the statutory mandate of the licensing time-frames statute.

In this case, the Department expects to move as quickly as possible to implement the statute fully while, at the same time, begin with a time-frames overlay rule flexible enough so as not to cause undue burdens on applicants. As applicants, the Department, and others obtain practical experience under the rule, clearer choices can be made to adjust the rule to fit the needs of all parties to the licensing transactions administered by the Department. The nature of this rule will require the Department to initiate a housekeeping rulemaking to amend the rule at least annually if only to make adjustments to license categories as licensing program requirements evolve in response to annual statutory changes. At the same time, other adjustments can be made to all portions of this rule in response to experience gained under its operation. In this initial rule making, however, the Department believes it essential not to disrupt current expectations of the Department's licensing activities other than to encourage and assist applicants to achieve approvable applications as early in the licensing process as possible.

The Department's fundamental perspective of these issues is based on the fact that the licensing activities of the Department all involve regulation of environmental matters in some way. Any rule implementing the licensing time-frames statute must change the Department's current methods of license application review in a number of important ways. Some of these are sure to have economic impacts on all parties to the transaction; individual license applicants, classes of regulated entities, the Department, and the society-at-large.

Arizona Administrative Register
Notices of Final Rulemaking

In its simplest terms, the Department's licensing activities responds to 3 sets of competing regulatory forces. The 1st comes from the viewpoint of an entire class subject to regulation, the 2nd from the viewpoint of the individual licensee, and the 3rd from the viewpoint of society. Often this means licensees as a class may urge the state to use its power to control externalities, provide a shield to liability, exclude or limit competition, and otherwise promote the interests of the class of licensees. Individual licensees may urge the regulating authority to apply varying standards within the class in regards to qualification or compliance requirements. Individual licensees may also compete among themselves for preferential access to the regulating authority's resources. This includes obtaining precedence over others for license application review resources; a recurring consideration especially during periods of growth in application numbers. Society, on the other hand, is usually more interested in controlling the results of specific activities based on perceptions of economic, moral, aesthetic, or other grounds and either (1) promoting those thought desirable or (2) prohibiting or reducing those thought undesirable.

The intersection of all these competing forces can result in a compromise, referred to here as the licensing transaction. This transaction has 2 classic forms, both of which result in a perceived decrease in the objectionable activity regulated. One form is to ration with or without conditions; the other is to force compliance with a set of predetermined conditions. Many licensing schemes combine elements of both. Using the 1st licensing transaction form (rationing), the state sets overall limits on activities that are perceived as capable of yielding the desired result, either directly or indirectly. Using the 2nd licensing transaction form (compliance), the state agrees to exclude others from a certain field in exchange for a promise by the licensee to operate under certain conditions. The greater the economic rewards for operating in the regulated area, the more conditions licensees are willing to accept. When the burdens of the imposed conditions become greater than the economic benefits available to licensees, society must provide greater incentives or the numbers of those willing to operate under the license will decrease. If the activity is one that society wants or has a need for, those incentives will be found; otherwise, the activity will be allowed to disappear.

A classic example of the rationing model is the acid rain program. The federal clean air act prescribes a combined maximum level of SO₂ emitted nationwide by all entities within a certain class. New entrants into the class must purchase needed emission rights from existing sources so that the total from all sources remains below the fixed ceiling. Classic examples of the compliance model are the various operator or service provider certifications administered by the Department. These are forms of occupational licensing. The purpose of this form of licensing is to insure a minimum level of competence and responsibility for persons conducting the regulated activities. The number of qualified licensees can increase without theoretical limit without adversely degrading the desired result of the licensing scheme.

Most licensing programs administered by the Department combine elements of both models. In this combined form, a compliance model is implemented but the level of compliance required will change as more licensees enter the field. One example is the state's vehicle emission inspection program. Current regulation sets a fixed compliance level and all applicants who comply will be given a license requiring compliance at the same fixed level. Should the numbers of licensees increase to the extent that the fixed compliance level no longer meets the overall expected result, a new fixed compliance level may be set. In this case, the new level will apply to all licensees and not just to new applicants. This is an example of a regulatory scheme in which the rationing element of the model is spread equally among all members of the class through periodic adjustment as the renewal of licenses become due. A somewhat different example of the combined model may be found in the aquifer protection permit (APP) program. Here, although water quality standards are equally applicable to all licensees, individual compliance limitations for a new licensee may vary from conditions imposed previously on other licensees in the same area. This is because technology requirements for reducing discharge (best available demonstrated control technology or BADCT) for a new license may vary from previous licenses. Usually, BADCT requirement conditions contained in licenses issued for existing facilities (those already discharging when the APP program was instituted) are not as stringent as those for new facilities because of the difficulty of retrofitting pollution control technology. This means that licenses for new facilities may contain requirements to install better discharge control technology than required for existing licensees because that technology has become available on an industry-wide basis, that is, the technology is BADCT. In this case, the rationing element of this model may be disproportionately shared among fellow licensees and this inequality may not be suitable for periodic readjustment due to the long term persistence of the water quality degradation that gave rise to the inequality in the 1st place. This is a case where later entrants into the class may be required to operate under different compliance requirements due to the existence of previous entrants. This example illustrates how a compliance licensing model based on an overall rationing goal may result in long-term permit condition inequality among fellow licensees.

Department review of applications received in response to the various rationing or compliance licensing models described above requires differing levels of resources, technical expertise, and level of scrutiny. A successful licensing time-frames rule is one that responds appropriately to these varying complex licensing types, changing economic considerations, and changing environmental strategies while, at the same, satisfies stakeholder expectations and fulfills the Department's statutory obligations. Today's rule springs directly from the Department's view of what it inter-

prets its role under statute to require: license, oversee, enforce, advise, and assist those involved in those activities identified in statute as subject to the Department's regulation. Licensing is an important mandate but it is not the only mandate. This rule represents a reasoned and rational balancing of the Department's statutory obligations to police the licensing transaction while, at the same time, not to unduly burden applicants in the licensing process or impose unnecessary economic burdens on society.

5) The Massachusetts Experience.

The only other statutory equivalent to Article 7.1 is Massachusetts' timely action statute, Mass. Gen. L. ch 21A, § 18, and its implementing rule promulgated by the Massachusetts department of environmental protection (DEP). Mass. Regs. Code tit. 310, § 4. The Massachusetts law applies only to its DEP and, then, only to licenses incurring application review fees. Article 7.1, on the other hand, applies to almost all state agencies and applies to applications without regard to whether a review fee is required or not. DEP has operated under this statute since 1991 and has experienced a refund rate of less than 0.5%. The Department understands that both DEP staff and applicants find life under the timely action rule more satisfactory than before 1991. The Department has looked closely at DEP and has attempted to learn from their 7 years of experience. This rule contains many elements based on that experience including the underlying rationale that the primary purpose of Article 7.1 is to encourage timely decision making and not to encourage refunds.

D. Department Response.

The Department has a certain degree of discretion in handling how it will promulgate rules implementing Article 7.1. If the Department wants to exert a high degree of control over the imposition of sanctions, it must define most or all of the ambiguous terms in Article 7.1 and define the starting, running, suspending, resuming, ending, and expiring of the time-frames with specificity. Ignoring the ambiguities can only increase sanction risks and the resulting pressure to either increase fees on fellow licensees or curtail or suspend Department activities.

1) The Basic Statutory Imperative.

The Department interprets the basic statutory imperative of Article 7.1 to be that an agency should refund application fees when it fails to make a licensing decision on an application within a specific number of days as set in rule; a kind of "money-back guarantee." To this end, Article 7.1 requires agencies to identify all licenses they issue, set review times for the licenses in rule, and then process applications for those licenses using a series a written notices, requests, and agreements in a much more formal (or restricted) process than is now the case.

Although the plain meaning of Article 7.1 appears rather applicant-hostile (especially as compared to current Department practice), it is unlikely that this was the actual intent of the Legislature. For example, Article 7.1 provides that agencies should have adequate time to review applications but does not provide additional time for applicants to cure defective applications other than to respond to certain highly formalized and restrictive written notices and requests. Further, Article 7.1 forces applicants to submit complete applications at the beginning of the process, is silent on the possibility of phased application submittals, essentially prohibits applicants from changing application components and proposals once submitted, and is silent on the possibility that applicants may want to delay certain events during the licensing process such as public hearings, Department response to issues raised at hearings or during public comment, or summary denials due to defective applications. These restrictions do not affect the disposition of Model C and D license processing types but do significantly diminish applicant control and options in Model E and F types. As between reviewing agencies and applicants, Article 7.1 places the greater new burdens by far on applicants.

In promulgating rules implementing Article 7.1, the Department must balance the requirement to impose a much more formalized and restrictive application review process on prospective licensees while continuing to implement other statutory imperatives to cooperate with and assist applicants in obtaining licenses.

2) New Documents Required by Article 7.1.

Article 7.1 identifies 6 significant documents not previously defined and requires the Department to issue them to applicants as appropriate when complying with the Article. The Department must develop forms for all 6 as appropriate to respond to each type of license requiring substantive review it issues. The risk of sanctions will vary depending upon the availability and use of each document.

Notice of administrative completeness. Only a written notice meeting the requirements of A.R.S. § 41-1074(A) will have the power to stop the administrative completeness review time-frame and start the substantive review time-frame early. Article 7.1 requires the Department to issue this notice if it can. This rule addresses this requirement in R18-1-503.

Notice of deficiencies with a comprehensive list of specific deficiencies. Only a written notice meeting the requirements of A.R.S. §§ 41-1074(A)-(B) will have the power to suspend the administrative completeness review time-frame. This rule addresses this requirement in R18-1-503.

Comprehensive request for additional information. Only a written request meeting the requirements of A.R.S. § 41-1075(A) will have the power to suspend the substantive review time-frame. This rule addresses this requirement in R18-1-504.

Supplemental request for additional information. Only a written request meeting the requirements of A.R.S. §§ 41-1075(A)-(B) will have the power to suspend the substantive review time-frame. This rule addresses this requirement with the use of supplemental request agreements governed by R18-1-509.

Notice granting license. Only a written notice meeting the requirements of A.R.S. § 41-1076 will have the power to stop the time-frames as a result of making a licensing decision to grant a license. This rule addresses this requirement in R18-1-507.

Notice denying license with statutory or regulatory justification and explanation of appeal rights. Only a written notice meeting the requirements of A.R.S. §§ 41-1076(1)-(2) will have the power to stop the time-frames as a result of making a licensing decision to deny a license application. This rule addresses this requirement in R18-1-507.

The Department may define and use other documents than the basic 6 identified above. None are specifically required by Article 7.1 but the following 4 other documents can be inferred and probably are useful in maintaining Department control over the time-frames.

Notice of Department receipt of initial application. This document can be inferred from A.R.S. § 41-1072(1) and its use could fix the start of the time-frames. This rule addresses this requirement in R18-1-501(13)(c) and allows to Department to issue a notice fixing the date of Department receipt under certain circumstances.

Notice of Department receipt of all information requested on the comprehensive list of specific deficiencies. This document can be inferred from A.R.S. § 41-1074(C) and its use could fix the resumption of the administrative completeness review time-frame. This rule addresses this requirement in R18-1-501(13)(c) and allows to Department to issue a notice fixing the date of Department receipt under certain circumstances.

Notice of Department receipt of all information requested on the comprehensive request for additional information. This document can be inferred from A.R.S. § 41-1075(A) and its use could fix the resumption of the substantive review time-frame or time-frame extension. This rule addresses this requirement in R18-1-501(13)(c) and allows to Department to issue a notice fixing the date of Department receipt under certain circumstances.

Notice of Department receipt of all information requested on the supplemental request for additional information. This document can be inferred from A.R.S. § 41-1075(A) and its use could fix the resumption of the substantive review time-frame or time-frame extension. This rule addresses this requirement in R18-1-501(13)(c) and allows to Department to issue a notice fixing the date of Department receipt under certain circumstances.

3) Public Participation and a Flexible Rule

Today's rule expresses the Department's determinations and beliefs as to its discretion to provide the maximum extent of flexibility to applicants available under Article 7.1. The Department solicited comment on this approach in a series of public workshops and in the October 23, 1998, notice of proposed rulemaking. This included determinations of discretion to act, whether the features proposed actually do benefit applicants as intended, and whether other features may provide more effective or efficient flexibility for applicants. One goal of the Department's approach is to bring the regulated community into compliance with state law by encouraging applicants to fashion an approvable application when they apply in the 1st instance. This approach is the Department's preferred alternative.

The Department arrived at this determination after extensive public participation, first, in the development of general policy objectives and, second, in the decision making of what a successful licensing time-frames rule should look like.

In November 1996, the Department began serious analysis of its rule development needs to accomplish a successful licensing time-frames rulemaking within the statutory deadline of December 31, 1998. At first, the Department expected to respond with separate rule makings on a program-by-program basis as this has always been how the Department has proceeded with rulemaking in the past. By January 1997, it became clear that only a unitary rulemaking with uniform definitions and procedures applicable to all programs was practical. The Department then established an internal task force of 18 persons from various licensing programs to construct a work plan. That task force quickly grew to 40 in order to provide representation from all programs with a stake in the rule making.

The Department task force analyzed the Massachusetts experience with its own timely action statute and concluded that a central tracking system was essential. This further reinforced the need for a unitary rule. In May 1997, the inter-

nal task force (now expanded to 70) circulated an internal rule draft to over 120 persons within the Department and devised a public participation plan. This began with hiring L.L. Decker & Associates as 3rd-party facilitators to assist in devising the plan. This plan began with an invitation to about 20 representative stakeholders to meet as a group to critique a long-term public participation plan on this rulemaking.

As a result, the Department modified its plan and proceeded to conduct a series of 10 focus groups in July 1997 in Phoenix, Tucson, and Flagstaff with persons invited from a wide range of representative stakeholder communities. The results of these focus groups and a detailed discussion of the issues was reported in a 16-page special edition of the August 5, 1997 *ADEQ Rulesletter*. The Department then prepared a draft rule for public stakeholder review and informal comment on September 22, 1997. The draft was also made available on the Internet. The draft responded to the focus group comments and contained 18 tables with 379 license categories. This draft was then used to conduct 23 half-day public workshops in Phoenix, Tucson, and Flagstaff in October and November 1998. A follow-up workshop was held in January 1998 to review Table 2, Class II Air Licenses, in response to comment received in the earlier workshops.

In working towards a rule package, it became clear in May 1998 that 1 set of licenses had been overlooked in the earlier draft rule; those dealing with certain safe drinking water monitoring and treatment licenses issued outside of regular construction licenses. The Department had engaged this stakeholder group in the earlier round in 2 other licensing areas (construction approvals and operator certifications) but determined that it was essential to interrupt the process to engage them specifically in this 3rd area of licensing activity. The Department then held another focus group in June 1998 for this stakeholder group, issued a draft table (now shown as Table 9 in this rule) and issued a 2nd 16-page special edition of the *ADEQ Rulesletter*, this time focused on the licensing time-frame issues of this specific group. In order to provide adequate notice of additional informal public workshops on these licenses, the Department then held 6 additional workshops in September 1998 in Phoenix, Tucson, Yuma, Bullhead City, Cottonwood, and Show Low.

During the course of the development of this rule, many stakeholders expressed the desire to split a number of the categories shown in the September 1997 draft rule in order to provide more options and flexibility for their benefit. This the Department did. In addition, the Department also recognized stakeholder desires to expand the range of licenses available at the Southern Regional Office in Tucson and the Northern Regional Office in Flagstaff. In all, the resulted in 599 license categories presented in the October 23, 1998, notice of proposed rulemaking. Further analysis after proposal has resulted in the combining or splitting of some categories and the deletion of others in today's final rule. This results in 476 categories in this rule.

The most visible result of public participation in this rulemaking was the extensive inclusion of flexible provisions presented in the proposed rule to assist applicants to work towards an approvable application as quickly as possible without being subjected to summary denials.

After submission of the notice of final rulemaking to the governor's regulatory review council (GRRC) in December 1998, GRRC raised objections to several of the flexible provisions presented in the proposed rule. GRRC also objected to several of the definitions presented in the proposed rule and which were intended to provide clarity to certain operations of the time-frames including the beginning, suspending, resuming, and ending of the time-frames. After consultation with the office of the attorney general, the Department has incorporated those changes into today's rule.

Once today's rule becomes effective, the Department expects to assess its performance under the rule and continue its vigorous public participation policy in order to prepare for each annual housekeeping amendatory rule making.

4) Rule Text Policy Alternatives Contained Within The Proposed Rule

The October 23, 1998, notice of proposed rulemaking contained a number of rule text alternatives based on several policy choices available to the Department. Based on public consideration, input, and comment made before, during, and after the formal comment period, the Department made choices among the several alternatives before submitting a rule text to the governor's regulatory review council (GRRC) for review and approval. The Department believes that today's rule is not so different from the rule as proposed that reproposal (or a notice of supplemental rule making) is necessary.

An agency may not submit a rule that is substantially different from the rule contained in the notice of proposed rulemaking or contained in a subsequent notice of supplemental rulemaking published in the *Arizona Administrative Register*. A.R.S. § 41-1025(A). All the following must be considered when determining whether the rule submitted to GRRC is substantially different from the proposed rule published in the *Register*:

1. The extent to which all persons affected by the submitted rule should have understood that the published proposed rule would affect their interests.

2. The extent to which the subject matter of the adopted rule or the issues determined by that rule are different from the subject matter or issues involved in the published proposed rule.
3. The extent to which the effects of the adopted rule differ from the effects of the published proposed rule if it had been adopted instead.

A.R.S. § 41-1025(B).

The Department stated in the October 23, 1998, notice of proposed rulemaking that the decision of which rule text alternatives to include in the rule submitted to GRRC would depend on 3 primary policy considerations: (1) to what extent does the Department have legal authority to promulgate a rule provision, (2) to what extent must the Department adopt a phased implementation program to respond to resource constraints, and (3) to what extent does the public want the Department to make certain choices in the submitted rule.

a. Primary policy alternatives.

The proposed rule contained many provisions intended to provide as much flexibility to applicants as possible. These included provisions (1) that suspend time-frames under certain circumstances while applicants attempt to cure certain very specific defects in their applications and (2) that allow the Department and applicants to enter into licensing time-frame agreements to accommodate phased and changed applications as well as to allow imposition of this rule on certain applications otherwise exempt. Should such flexibility be considered as without authority or unwanted by the public, the Department's primary alternatives were to delete the provisions in whole or in part and either submit extended time-frames as appropriate in some or all categories so as to allow applicants to cure defective applications or it might have been to keep some or all time-frames the same and, as a result, restrict applicant's abilities to cure defective applications. Today's rule leaves the proposed rule unchanged on most of these points but does delete certain minor suspension provisions contained in the proposed rule. These are discussed in more detail below.

b. Applicability rule text alternatives.

The proposed rule showed the Department's determination of the entire scope of applicability of Article 7.1 to the Department's licensing activities. The Department stated that it might reduce the extent of applicability in the rule submitted to GRRC but will not expand the extent in this rule making. The Department expected to reduce the applicability of Article 7.1 only if there is general agreement that the Department erred in its interpretation of the statutory mandate of Article 7.1. The Department would then delete licensing activities identified in this proposed rule that it determines it does not have the legal authority to include. The primary discussion of the Department's current understanding of the applicability of Article 7.1 occurs below at § 6(E)(1) concerning what is a "license" subject to Article 7.1. The Department did delete certain categories on Table 20 governing certain remediation licenses administered by the voluntary program. More discussion on this point occurs at § 10 below.

The Department stated that if it were determined that the Department should expand the reach of Article 7.1 to include activity not covered in this proposed rule, the Department will promulgate that expansion in a separate rule making. This is because such a change is sure to increase the subject matter of the proposed rule and require, at least, a supplemental notice of proposed rulemaking before the Department may submit this type of change to GRRC for approval. Delaying such changes to a separate rulemaking will allow submission of the current proposed rule to GRRC at the earliest possible date. This, in turn, will ensure the earliest possible effective date for the rule. The Department expects to propose at least 1 rule each year to amend the licensing time-frames rule to incorporate revisions to the tables and perhaps other sections of the rule. Expansion of the reach of Article 7.1 to the Department's licensing activities can be addressed in the next annual rule revision.

c. License category rule text alternatives.

The Department stated that it had shown its preferred arrangement of license categories on the proposed tables and that it might adjust the categories in several ways in the rule submitted to GRRC for approval. This included combining or splitting the categories shown or revising the statutory and rule citations, time-frame days, and application components. A certain amount of this did occur as described below at § 10.

The Department also stated that adjustment of the citations and identification of application components, if made in the rule submitted to GRRC, would not represent substantial changes to the proposed rule because, in every case, they would represent clerical adjustment of what is already required by the proposed rule text. Changes to application components concerning "site inspection required," for example, would not constitute substantive changes to the license category because their identification merely represents what was already required by other existing statutes or rules and not by the proposed rule in the 1st instance. The same applied to statute and rule citations on the tables.

The Department also stated that changes to the days would not constitute substantial changes if they were made as trade-offs to other changes in the submitted rule so long as the entire package of changes taken as a whole would not represent a substantial change as defined under A.R.S. § 41-1025(B). Assuming current practice that approvable

Arizona Administrative Register
Notices of Final Rulemaking

applications are approved as soon as they are determined to be approvable, simple changes in times without offsetting changes elsewhere in the rule might represent substantial changes requiring reproposal. Such changes must be considered on a case-by-case basis. In general, reducing time-frames was more likely to represent a significant change than extending time-frames. Changes in time-frame periods have little effect on applicants who comply with their primary statutory duty to submit complete, approvable applications at the beginning of the process. The change in time-frame periods primarily affects applicants who did not so comply and who now require additional time in an attempt to achieve an approvable application. Those applications requiring only a small amount of correction usually need less time to comply than those applications requiring a great deal of correction.

The Department did make several changes to time-frame days as described below at § 10. Changes that resulted in less time were the result of further analysis of probable review needs or changes in program procedures and, as such, do not represent a substantial change from the proposed rule. Other changes described below that delete certain categories also do not represent a substantial change from the proposed rule.

d. Licensing time-frame rule text alternatives.

The Department stated that deletion of some or all of the flexible provisions of the rule would require changes to the rule text. Whether these would represent substantial changes must be determined on a case-by-case basis. As directed by GRRC, the Department did delete a number of flexible provisions from the rule as proposed and designed for the benefit of applicants. As described below at §§ 10 and 11, the Department also made a number of non-substantial changes in the rule text to clarify a number of the procedures governed by the rule.

e. Licensing time-frame agreements rule text alternatives.

The Department stated that deletion of the licensing time-frames changed application agreement provision might require a corresponding extension of licensing time-frames for some or all categories. Deleting this provision while keeping time-frames the same might represent a substantial change in all the categories with licensing Model E and F processing types. (See § 6(C)(3)(a) for license model types.) This is because such a result is certain to increase denials or give applicants approvals for obsolete proposals they no longer find advantageous.

Deletion of the licensing time-frames pre-application agreement provision might not be possible in its entirety due to direct conflict in statutes other than Article 7.1 that require the Department to process certain applications with application components submitted late in the review process.

Deletion of the licensing time-frames reactivation or opt-in agreement provisions would not represent a substantial change. Reactivation of time-frames would only occur if the applicant failed to comply with other statutory duties to submit all components complete on day 1 of the application. Opt-in time-frames would only apply to applications not originally required to be subject to Article 7.1. Both, however, might represent significant advantages to certain applicants if only because they might increase applicant certainty as to when a licensing decision (to grant or to deny) would be made.

The licensing time-frames supplemental request and extension agreement provisions are expressly identified in statute and, as such, should not be deleted in their entirety in this rule. Deletion, if it does occur would probably not represent a substantial change because it may be possible to still offer them directly by statute although it is not clear if the formal procedures applicable to these agreements must still be in rule. See A.R.S. § 41-1003 requiring all formal procedures available to the public to be in rule.

Today's rule leaves these provisions in the proposed rule intact except for the deletion of the reactivation licensing time-frames agreement. This agreement is deleted because the lapse provisions throughout the rule have also been deleted. Without the lapse provisions, there is no reason to retain the reactivation agreements.

f. Licensing time-frames suspension rule text alternatives.

The Department stated that the proposed rule contained a number of suspensions not expressly stated in Article 7.1: R18-1-514 pending payment of fees, R18-1-515 due to changed applications, R18-1-518 due to emergencies and upset conditions, R18-1-520 due to notice of intent to rely on the application components submitted, and R18-1-521 due to notice of intent to rely on the license category. The Department's main rationale for including these suspensions was to allow shorter time-frames. One alternative was to delete all these suspensions and increase time-frames on the assumption that such times may be needed by applicants.

A 2nd alternative was to identify numerous companion categories with lengthened time-frames with the specific events giving rise to the suspensions in this proposed rule presented as additional application components in the alternative rule. For example, in exchange for the deletion of the emergencies and upset conditions provisions in R18-1-518, all approval-of-construction license categories on Tables 5 through 7 could be doubled with companion categories added for each existing category with the additional requirement of "with site inspection delayed because of lack

of access due to weather or other natural conditions” and the additional of 30 days. This approach would more clearly restrict the ability of the Department to declare a time-frame suspension but would complicate the resulting rule by a significant amount.

A 3rd alternative was to delete the suspension provisions and leave the time-frames unchanged. Depending upon the outcome of further analysis, deletion of these provisions while keeping time-frames the same might represent a substantial change in all the categories with licensing Model E and F processing types. (See § 6(C)(3)(a) for license model types.) This is because such a result is certain to increase denials or give applicants approvals for proposals they no longer find advantageous.

Except for R18-1-518, today's rule deletes these suspension provisions leaves these provisions from the proposed rule using the 3rd alternative described above. Further analysis now shows that deletion of these provisions do not represent a substantial change. Applicants must take care to determine exactly what approval they seek from the Department when making an initial application submittal.

5) Oral proceedings and comments

The Department held 3 oral proceedings on the proposed rule in accordance with A.R.S. § 41-1023. The Department held the proceedings in Phoenix, Tucson, and Flagstaff on November 24, 1999. In accordance with A.R.S. § 41-1023(D), the Department conducted the proceedings in a manner that allowed for adequate discussion of the substance and the form of the proposed rule. Persons were allowed to ask questions regarding the proposed rule present oral argument, data, and views on the proposed rule. No member of the public appeared at the Flagstaff oral proceeding. One member of the public appeared at the Tucson proceeding but asked no questions and presented no oral argument, data, or views. No one appeared at the Phoenix proceeding. After adjournment, 2 members of the public appeared and the Department reopened the proceeding. Both members asked several questions but stated that any oral argument, data, and views on the proposed rule would be submitted in writing by December 7, 1998.

The Department received 3 comment letters: 1 prior to the start of the formal comment period, 1 during, and 1 after. The 1 received after was addressed to both the Department and the governor's regulatory review council (GRRC). The Department responded to all 3 letters in § 10 below. In addition, the Department responded in § 10 to written comments made by GRRC in a courtesy review prior to proposal, to a number of oral comments made at the workshops prior to proposal and which were not repeated in the comment letters, and to GRRC comments prepared after submission of the rule to GRRC for review.

E. Statutory Objectives.

Before proposing a rule, A.R.S. § 41-1035 requires an agency to determine the relevant statutory objectives that form the basis of the rule so as to perform a rule impact reduction analysis regarding the class of small businesses. Determinations necessary to perform that analysis are also relevant to other analyses of a proposed rule.

1) Only Certain Licenses Administered by the Department Are Subject to Article 7.1 Licensing Time-frames Requirements.

What exactly is a license subject to Article 7.1 requirements? The Department has determined that it must be a permission that (1), if granted, will change the licensee's legal rights, duties, or privileges under state or federal law and (2) is granted affirmatively by the Department after receipt of a request to issue the license by the prospective licensee. This means that a license is excluded from Article 7.1 if it does not meet both requirements. The Department has also determined that a license that passes these 1st 2 steps is nevertheless excluded from Article 7.1 if it is (1) granted by default if the Department does not make a licensing decision within a specified time, (2) obtained pursuant to an enforcement or compliance order targeted at the applicant that imposes additional application components not identified in a license category in this rule, (3) obtained pursuant to compliance activity in accordance with a previously obtained license except for revisions and renewals, (4) obtained pursuant to a contractual agreement with the Department, (5) the result of an application 1st received prior to Department receipt of the 1st acceptable application component, or (6) issued normally within 7 days after receipt of the initial application. The Department arrived at this determination as follows.

Article 7.1 requires the Department to establish “overall time-frames during which the agency will either grant or deny each type of license it issues.” A.R.S. § 41-1073(A). The Department “may adopt different time-frames for initial licenses, renewal licenses and revisions to existing licenses.” A.R.S. § 41-1073(B). Article 7.1 relies upon the definitions of “license” and “licensing” at A.R.S. § 41-1001(11)-(12) of the Administrative Procedure Act (APA) that state that

“License” includes the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law, but does not include a license required solely for revenue purposes.

Arizona Administrative Register
Notices of Final Rulemaking

“Licensing” includes the agency process respecting the grant, denial, renewal, revocation, suspension, withdrawal or amendment of a license.

This definition of “license” is broad and, arguably, includes a very wide range of the Department's activities. In its most basic sense, then, “license” means “permission.” This is both its plain meaning and usual legal meaning. Determining exactly which of the many types of approvals and permissions granted by the Department represent actual “licenses” and, of these, which are subject to Article 7.1 has required careful analysis. In some cases it has been easier to determine what is not an Article 7.1 license than what is. To this end, the Department has made the following determinations. Instances in which the Department provides some sort of permission to others seems to fall into 4 general areas: licensing, compliance, enforcement, and contractual. Although each of these activities has a central core of meaning that seems reasonably distinct from the others, substantial blurring of distinctions occurs at the edges. As discussed below, it seems reasonable that the Legislature intended that only a certain type of “licensing” activity be subject to Article 7.1. If a permission or license falls more clearly within the other activities identified above, it seems reasonable that it should be excluded from coverage by Article 7.1.

a. Permission required by law.

The APA defines “law” as “the whole or part of the federal or state constitution, or of any federal or state statute, rule of court, executive order or rule of an administrative agency.” A.R.S. § 41-1001(16) (“provision of law”). The meaning is broad. This means that a “permission required by law” probably means a “permission required by any law.” In this regard, the Department has determined that to be subject to Article 7.1, an application must contain some request of the Department to issue a permission that, if issued, has a reasonable probability of altering the requestor's rights, duties, or privileges under the law. This means that requests for Department actions that probably will not change the requestor's legal status are excluded. Examples of how a person's legal status might change include a Department determination that allows a person to do some act otherwise prohibited by law or allows a person to refrain from some act otherwise required by law. This can include changes that shield a person from enforcement, alters the extent to which a person must remediate or do some other act required by law, alters a person's prime facie case in state or federal court, qualify a person to receive a state or federal tax refund, or otherwise places a person in a different position in regards to the law.

The Department has determined that it is irrelevant to this analysis (1) whether or not the decision by a person to submit an application to the Department was, in itself, voluntary or (2) whether or not the person could have achieved by some other means the same change in that person's rights, duties, and privileges under law as that provided by a determination issued by the Department. For example, no one in Arizona is actually “required by law” to apply for and obtain an Arizona driver's license. A person can find alternative ways to use the public rights-of-way and avoid enforcement for not possessing a driver's license including walking, riding a bus, or using a chauffeur. In addition, a person can drive legally in Arizona without obtaining an Arizona driver's license. It can be just as legal to drive in Arizona with a driver's license issued by another state or by a foreign government. Here, the choice of alternative means of avoidance or compliance are irrelevant to the change in a person's legal rights, duties, and privileges that an Arizona driver's license, in law, actually confers on a person once it is issued. This means that once obtained, an Arizona driver's license gives the licensee the necessary “permission required by law” to drive in the public rights-of-way. The Department has applied this same logic to its own licensing activity.

b. Licenses created by notification.

Article 7.1 places a narrowing qualification on the APA definition of license. Article 7.1 applies only to licenses an agency “issues.” A.R.S. § 41-1073(A). The Department administers a large number of licenses that result from laws requiring notification to the Department of a proposed activity before proceeding but that do not require or authorize the Department to respond or issue any form of affirmative permission. Mandatory notification or reporting requirements including those creating licenses by the mere act of notification may prompt the Department to investigate and that, in turn, may lead to enforcement or compliance orders of various kinds. The Department has determined that the statutory objectives of Article 7.1 do not extend to such licenses created by mere notification. This makes sense as such licenses produce no affirmative Department activities that qualify as administrative completeness review, substantive review, or license granting. This determination appears in this rule as R18-5-102(A)(2).

c. General licenses.

Article 7.1's limitation only to licenses an agency “issues” also excludes classic general licenses. These are licenses obtained by a person by mere compliance with terms and conditions identified in statute or rule and that do not require the person to notify the state. The Department administers a number of these types of licenses but may not even know who may be operating under the licenses. Failure to obtain or comply with a classic general license is dealt with under the Department's enforcement, not licensing, authority. The Department has determined that the statutory objectives of Article 7.1 do not extend to such licenses created solely by actions by persons independent of

Department review and approval. This determination appears in this rule as R18-5-102(A)(1). The Department also issues a number of other licenses called “general” in statute or rule but that, in fact, are licenses that require an application, are individual issued by the Department, and are subject to Article 7.1.

d. Licenses granted at the Department’s initiative.

The Department administers a number of licenses that are initiated by the Department but that do not require the submission of an application by the prospective licensee. These usually involve the unilateral amendment of an existing license as required by statute or rule. The Department has determined that the statutory objectives of Article 7.1 do not extend to such licenses created solely by actions of the Department. This determination appears in this rule as R18-5-102(A)(3).

e. Licenses granted by default.

The Department administers a number of licenses that are granted by default if the Department fails to make a licensing decision within a certain time specified in statute or rule. This means that the applicant will always know the outcome of an application by a fixed time that can never be extended. The Department has determined that the statutory objectives of Article 7.1 do not extend to such licenses granted by default should the Department fail to make a licensing decision within a specified time. This determination appears in this rule as R18-5-102(A)(4) and no such licenses are shown on the license tables in today's rule.

f. Enforcement licenses.

This class consists of licenses obtained pursuant to enforcement or compliance orders or settlement agreements targeted at a person that require the person to submit an application but that also require the application to contain 1 or more additional components not identified in a license category on the license tables of this rule. The Department has determined that the statutory objectives of Article 7.1 do not extend to such licenses resulting from applications for licenses not specified on the license tables of the rule. This determination appears in this rule as R18-5-102(A)(5) and R18-5-102(A)(6).

Enforcement activities by the Department include a variety of permissions including acceptance and approval of compliance with orders or settlement agreements. Once obtained, these approvals can provide recipients with permission of conduct and facilities that operate very much as permission or approvals obtained under a traditional license or permit. In exchange for certain conduct, a person is deemed in compliance with state law and is shielded from further enforcement action by the Department. Moreover, the requirement to apply for and obtain a license is often a condition of an enforcement or compliance order or settlement agreement, further blurring the distinction between prospective traditional licensing and individualized after-the-fact enforcement activities.

The primary difference between a license granted to an applicant in the 1st instance and one granted pursuant to an enforcement activity is that for the former, the applicant is one of a class defined prospectively in statute or rule and the sole relevant relationship between the applicant and the Department is the application itself. It is in this context that Article 7.1 has relevance and meaning. For the latter, the applicant is one identified and targeted in an enforcement action and the relevant relationship between the applicant and the Department is much broader than the application alone. Such an application often carries considerable baggage with complex, difficult, and unresolved issues in addition to just the basic licensing issue. In this context, Article 7.1 seems to have little relevance or meaning. First, prospectively defined license categories cannot reasonably predict the time necessary to perform the individualized after-the-fact focus inherent in enforcement orders. Second, other pending enforcement issues outside the license application itself may interfere with a simple and orderly review of the underlying license application. Third, reviewing an application in the context of an enforcement action is usually far more complex than reviewing an application submitted in the 1st instance. Finally, allowing such an applicant to compete for a refund under Article 7.1 is sure to set up serious conflicts in an overall enforcement action which may require the applicant to pay other costs than just the application fee.

Still, the Department has determined that licenses applied for (1) pursuant to an enforcement or compliance order naming the applicant or (2) pursuant to a settlement agreement are subject to Article 7.1 requirements if the license applied for appears on a license table in this rule and requires only the application components identified in that category. On the other hand, applications that require the applicant to submit components not identified in the license category or that require the Department to make preliminary determinations not usually required for normal applications in the same category in the rule are excluded from Article 7.1 requirements.

g. Licenses issued by political subdivisions.

Article 7.1 applies only to licenses issued by “agencies.” A.R.S. § 41-1073(A). The APA limits “agency” to state agencies and excludes political subdivisions of the state. A.R.S. § 41-1001(2). The Department has many delegation and other intergovernmental agreements with political subdivisions of the state that require the subdivisions to issue

Arizona Administrative Register
Notices of Final Rulemaking

licenses. The Department has determined that the statutory objectives of Article 7.1 do not extend to such licenses if the political subdivision is issuing the licenses under its own governmental authority. This determination appears in this rule as R18-5-102(A)(7).

On the other hand, the Department has determined that licenses issued by a Department agent are subject to Article 7.1 if the agent issues licenses under agreement with the Department and that agent has no power to issue licenses but for the authority of the Department. This means that a license issued by a political subdivision does require the Department to impose Article 7.1 requirements on the license if the political subdivision is acting solely as the Department's agent and has no governmental authority to issue the license but for an agreement with the Department. In other words, this means that the political subdivision must be acting under its proprietary, not governmental, powers and that it does not operate beyond such authority as that able to be exercised by a private nongovernmental entity under contract to the Department.

h. Compliance licenses.

Traditional licensing activity divides into 2 categories: activity aimed at obtaining the license and activity resulting from compliance with the license once issued. The Department has determined that it is only the 1st activity that is subject to Article 7.1. Obtaining a license means doing some act or acts that results in the granting of the license. For a classic general license, conformance of conduct to a specified manner without more may be enough to obtain the license. Other licenses may require more such as a formal application, the submission of specific information, and proof of qualifications. Once granted, a license may contain conditions requiring the licensee to obtain additional approvals from the Department upon the occurrence of certain events, the failure of which to obtain may subject the licensee to enforcement action under the original license. These may represent licenses obtained to maintain compliance with the original license such as approvals of reports and inspections. The Department has determined that the statutory objectives of Article 7.1 do not extend to licenses required to conform activity to an existing license, the exception being revisions and renewal licenses as these are specifically mentioned in Article 7.1. This determination appears in this rule as R18-5-102(A)(9).

The license tables of this rule identify 476 license categories. The Department estimates that the inclusion of this type of compliance activity licenses as subject to Article 7.1 could require the addition of at least another 2500 license categories.

i. Contractual licenses.

Contractual activities by the Department include such matters as the approval and acceptance of office supplies obtained under a procurement contract or the approval of a corrective action plan done under a state assurance fund (SAF) grant agreement. The APA exempts "matter[s] relating to agency contracts." A.R.S. § 41-1005(a)(16). Technically, then, all matters related to Department contracts are exempt from Article 7.1. But what, exactly, constitutes a matter "related" to an agency contract? The line between a contractual and a licensing relationship is not always clear. In a sense, the types of approvals that result from the operation of contractual terms and conditions do seem to be a type of "permission required by law" in that a party to a contract can be bound to act in accordance with the contract by law. Even without the specific APA exclusion for contractual matters, the Department would still believe it reasonable that permissions or licenses arising out of contractual relations are not subject to Article 7.1 requirements. Specific contract terms or, in their absence, general contract principles can provide appropriate remedies for the Department's failure to act in a timely manner under a contract. It seems reasonable that approvals leading to a contract should also be exempt from Article 7.1 as a matter "related" to the contract, especially if the contract requires the Department to pay the contractor as is the case under certain Department programs such as the state assurance fund (SAF). The Department has determined that the statutory objectives of Article 7.1 do not extend to such licenses relating to contractual activities. This determination appears in this rule as R18-5-102(A)(10).

j. License revocation, suspension, annulment, and withdrawal.

The APA defines "licensing" to also include the revocation, suspension, annulment, and withdrawal of a license. A.R.S. § 41-1001(12). The title of Article 7.1 is "licensing time-frames." This suggests the possibility that such processes are also subject to Article 7.1. Analysis of Article 7.1, however, makes it clear that it applies only to reasonably foreseeable prospective licensing activity and not to individualized after-the-fact enforcement activity. The Department has determined that the statutory objectives of Article 7.1 do not extend to such licensing processes such as revocation, suspension, annulment, and withdrawal activities. This determination appears in this rule as R18-5-102(a)(11). Further, Article 7.1 expressly requires rulemaking to set time-frames only for the issuance of licenses. A.R.S. § 41-1073(A).

k. Retroactive effect.

Arizona Administrative Register
Notices of Final Rulemaking

Generally, “[n]o statute is retroactive unless expressly declared therein.” A.R.S. § 1-244. Article 7.1 does not expressly declare that it apply retroactively to license applications currently in process when an agency’s rule becomes effective. In this regard, Article 7.1 gives no direction governing how to make after-the-fact determinations of administrative completeness, suspensions of time-frames, and the like. Further, the effect of this rule to applications already in process prior to the effective date of this rule is sure to cause severe and unfair hardship on many of those applicants if only because the formal procedures required by Article 7.1 were not in place from the beginning of the application process. This determination appears in this rule as R18-5-102(a)(12).

1. Licenses issued within 7 days.

Article 7.1 exempts from time-frame requirements all licenses issued within 7 days after receipt of the initial application. A.R.S. § 41-1073(D)(2). Based on this exemption, the Department has concluded that it cannot apply time-frame requirements to several categories of licenses normally issued within 7 days after receipt of the initial application. Examples of such license categories include vehicle inspection compliance certifications which in 1996 numbered approximately 1,400,000 and generally are issued very soon after the time of the application, usually on the same day. The Department has determined that this provision of Article 7.1 is self-implementing and does not require rule making.

2) Structure of Time-frames Licensing Categories Must Be Responsive to Applicants.

Article 7.1 does not place express restrictions on the construction of specific license categories in rule once a Department has identified its entire licensing activity subject to Article 7.1. In most cases, the division of the overall licensing activity into categories is obvious; at other times, it is less so. In this respect, an agency may divide its existing licensing activity into whatever categories it determines best responds to the needs of applicants. This is a reasonable statutory objective of § 41-1073(B) and is achieved in this rule by the division shown on the proposed tables.

3) Timely Licensing Decisions Must Be Based on Sufficient Information.

Article 7.1 identifies aspects of the licensing process centering on administrative completeness review, substantive review, agreements affecting the application review process, and sanctions for untimely agency action. Additional aspects of the licensing process are identified by harmonizing Article 7.1 with other competing statutory requirements.

a. License application submission.

The term “application” appears throughout Article 7.1 but is undefined. Article 7.1 gives the term at least 4 distinct meanings depending on the context: an “application” is (1) whatever is necessary to begin the process and start the time-frames, A.R.S. § 41-1072(1), (2) whatever is necessary to allow the Department to issue a notice of administrative completeness, end the administrative completeness review time-frame, and start the substantive review time-frame, A.R.S. §§ 41-1072(1) and 49-1074(A), (3) whatever is necessary to allow the Department to determine whether to grant or deny the license and end the time-frames, A.R.S. §§ 41-1072(2) and 49-1076, or (4) whatever is necessary to qualify as “administratively complete” automatically upon the expiration of the administrative completeness time-frame and start the substantive review time-frame. A.R.S. §§ 41-1072(1) and 49-1074(C). In other words, the term may mean everything necessary to grant or deny the license and end the time-frames, only the minimum necessary to start the time-frames, or something in between.

This variation in meaning is exemplified at A.R.S. § 41-1072(1) where the term “application” appears twice in this 1st sentence of Article 7.1 and has a different meaning in each instance.

“Administrative completeness review time-frame” means the number of days from agency receipt of an *application* for a license until an agency determines that the *application* contains all components required by statute or rule

(emphasis added.) The 1st occurrence means the initial submittal which may or may not be complete. The 2nd occurrence means the sum total of everything required of the applicant or other state agencies to support the issuance of the license.

The Department relies on the 1st interpretation in this instance, meaning that an application must contain sufficient components to start the time-frames. This must include the applicant’s name and address, the applicable license category, a fee if required, a completed Department application form if required, and a good faith effort to supply all the required application components.

b. Administrative completeness review (ACR) time-frame.

“Administrative completeness review time-frame” is defined at A.R.S. § 41-1072(1) with further detailed requirements at A.R.S. § 41-1074. The administrative completeness review time-frame begins upon receipt of an application that is sufficiently complete to perform the review and may involve some or all of the following elements.

Arizona Administrative Register
Notices of Final Rulemaking

(1) Notice of administrative deficiencies. A notice of administrative deficiencies must be written and contain a comprehensive list of specific deficiencies based on statute or rule. The notice suspends rather than ends the ACR time-frame with the suspension lasting until the agency receives the missing information after which the time-frame resumes. The statute does not prohibit multiple written notices of administrative deficiencies; however, such notices issued after the ACR time-frame has expired will not suspend the overall time-frame (OTF).

(2) Presumptive administrative completeness. A.R.S. § 41-1074(C) provides that an application is deemed administratively complete upon the expiration of the ACR time-frame. Presumptive administrative completeness means only that the substantive review (SR) time-frame automatically starts and does not mean that the Department is now precluded from requesting additional information or that the Department is now required to grant the application. This is because other statutes prohibit the Department from granting by default any of the licenses identified in this rule. In every case, other statutes place the burden of applicants to submit all required components and prove their entitlement to a license before the law confers sufficient authority on the Department to grant and issue the license.

(3) Notice of administrative completeness. Department notice of administrative completeness is the only event that ends the ACR time-frame affirmatively prior to expiration. This notice starts the substantive review (SR) time-frame before the date upon which it would have started had the agency not issued the notice and had allowed the ACR time-frame to expire through inaction. The unused days remaining in this time-frame are probably lost.

(4) Submittal of information from other agencies. A.R.S. § 41-1072(1) requires that “all information required to be submitted by other government agencies” occur within the ACR time-frame. “Agencies” means state agencies; therefore, information required from non-agencies is not covered such as a response by EPA to a proposed Class I air permit. Such information may constitute a valid basis to deny a permit even if received during the substantive review (SR) time-frame.

c. Substantive review (SR) time-frame.

“Substantive review time-frame” is defined at A.R.S. § 41-1072(3) with further detail at A.R.S. § 41-1-1075. Moreover, A.R.S. § 41-1077 divides licenses into 2 groups based on whether substantive review by an agency is required before issuing a license. Licenses requiring substantive review are subject to refunds, fee excusals, and penalties. Licenses not subject to substantive review are not. The distinction between the 2 groups of licenses, therefore, has significant consequences for both license applicants and agencies.

The concept or meaning of “substantive review,” however, is not defined or otherwise described in Article 7.1, nor is the term used elsewhere in Arizona Revised Statutes. Also, the Department is not aware of any report or other document discussing the Legislature’s intent in dividing licenses into the 2 groups based on whether there will be substantive review.

The Department interprets “substantive review” to mean the qualitative evaluation of the information submitted in support of an application as opposed to “administrative completeness review” which the Department interprets as a clerical verification that the required information has been submitted.

(1) Public notice and hearings. A.R.S. § 41-1072(3) requires that “[a]ny public notice and hearings required by law shall fall within the” substantive review time-frame (SRTF). The Department had prepared the proposed rule based on its interpretation that the SR time-frame must extend until a licensing decision is made even if that decision occurs after the overall time-frame has expired. This was to make sure that any public notice and hearings required by law would absolutely occur within the SRTF. The proposed rule addressed the issue of expiration, imposition of sanctions, and reporting requirements by establishing “time-frame clocks” that operated within the time-frames. It was the clocks that suspended, resumed, and expired thus assuring that the rule would operate with the same results as required by statute. The Department had determined that the alternative to this interpretation would be that when the overall time-frame expired, the applicant would lose the ability to hold a valid public hearing unless the applicant withdrew and resubmitted the application.

The Department explained the incorporation of the “time-frame clock” concept in the proposed rule as follows. Definitions are provided to explain

the differences between “time-frame” and “time-frame clock” . . . for each of the 4 licensing time-frames identified in Article 7.1: administrative completeness review, substantive review, overall, and extension. The introduction of a “clock” operating within each time-frame eliminates a number of ambiguities in Article 7.1. It allows the counting of days to suspend without suspending the application itself. More importantly, suspending a “time-frame clock” rather than the time-frame itself, prevents invalidation of a public hearing or its required notice due to a Article 7.1 suspension. This allows the underlying time-frames to continue uninterrupted. Article 7.1 requires that any public hearing and its notice occur during the substantive review time-frame. The occurrence of suspensions in that time-frame and the ambiguity of whether the substantive review time-frame continues during

a time-frame extension would cloud the procedural validity of the notice and hearings to the detriment of applicants and the public.

Three terms defined in Article 7.1 are shown on this list of definitions: administrative completeness review time-frame, overall time-frame, and substantive review time-frame. The Department has repeated those terms found at A.R.S. § 49-1071 in this rule to clarify or interpret Article 7.1 to identify critical elements missing from the statutory definitions. These elements include precision in the determination of the starting and ending of each time-frame and clarity that suspensions will not invalidate public hearings, meetings, and notices. The Department believes it must fill in the missing gaps in the definitions in order to avoid uncertainty in the counting of days and the determination of when applicants may be due a refund.

GRRC objected to this interpretation and the Department has deleted all references in today's rule to "time-frame clocks." This change also resulted in the deletion of several definitions concerning various aspects of the time-frames as described in more detail under §§ 10 and 11 below.

(2) Requests for additional information during the substantive review time-frame (SRTF). Article 7.1 identifies 2 types of information requests that will suspend the operation of the SRTFs: the comprehensive and supplemental requests. A.R.S. § 41-1075(A) states that "an agency may make one comprehensive written request for additional information" that suspends the time-frames. In context, this means a unilateral suspension. There is no prohibition on additional comprehensive written requests but only 1 will suspend the time-frames. This makes good policy sense as well. A prohibition on the Department from informing an applicant of deficiencies means inevitable denial of the application, a result in direct conflict with the overall thrust and purpose of Article 7.1.

(3) Requests for additional information during a time-frame extension. A.R.S. §41-1075(B) provides that an agency and an applicant may agree to extend the SRTF. This means that a time-frame extension is a subset of the total SRTF and that additional comprehensive requests (1 of which may suspend time-frames) and supplemental requests may occur during the time-frame extension in the same manner as during the SRTF.

(d) Overall time-frame.

Article 7.1 identifies 2 types of overall time-frames. The 1st type is the "overall time-frame" defined in A.R.S. § 1072(2), the expiration of which leads to refunds, fee excusals, and penalties. The 2nd type is the "statutory overall time-frame" or the "statutory licensing time-frame" identified in A.R.S. § 41-1073(B). The Department has determined that the 1st definition controls for the purposes of determining whether sanctions apply.

(e) Counting of time-frame days.

Article 7.1 does not define "day" nor does the administrative procedure act (APA). The choices are "calendar day," "business day," or a combination of the 2. A typical compromise is to specify a certain number of days, such as 10, and define that days in excess of that number mean "calendar day" and days equal to or less than that number mean "business day." This solves the difficulties inherent in low-number review periods when the occurrence of weekends and holidays can substantially vary the number of business days available within a period. A similar case, however, is present in longer periods as well. A 30-day calendar period can have as many as 22 business days or as few as 18, a variance of as much as 22% (22/18). Even a 60-day calendar period can vary as much as 19% (44/37). The average is 20.6 business days per 30-day period or 20.9 business days per month. This is based on an average of 250.7 business days per 1 calendar year when business days exclude Saturdays, Sundays, and holidays.

Article 7.1 requires the Department to set time-frame periods in "days." Under the circumstances, it seems fairest to set all time-frame periods in business days no matter the length. This puts all application review periods on an equal footing no matter the day of the week or the month of the year filed. This approach also allows the Department to reduce time-frames periods to the actual number of business days believed necessary without increasing them to accommodate the variability inherent when specifying calendar days.

The Department has identified the following method for converting calendar days to business days:

Notices of Final Rulemaking

Calendar Times	Business Days	Calendar Times	Business Days	Calendar Times	Business Days
1 week	5 days	3 months	63 days	10 months	209 days
10 days	8 days	120 days	82 days	11 months	230 days
2 weeks	10 days	4 months	84 days	12 months	251 days
15 days	11 days	150 days	103 days	13 months	272 days
3 weeks	15 days	5 months	105 days	14 months	293 days
30 days	21 days	180 days	124 days	16 months	335 days
1 month	21 days	6 months	125 days	18 months	376 days
45 days	32 days	7 months	146 days	20 months	418 days
60 days	41 days	8 months	167 days	24 months	502 days
2 months	42 days	270 days	186 days	26 months	544 days
90 days	62 days	9 months	188 days		

The Department did not adopt of the meaning of “day” as defined at A.R.S. § 1-243 which means calendar day except when the last day is a holiday. In that case, the time extends until the next day not a holiday.

f. Suspension of time-frames.

A primary objective of Article 7.1 is to encourage timely licensing decisions and to discourage open-ended application review periods. Time-frames may suspend pending an applicant’s response to certain requests for additional required information. What happens when the applicant fails to respond for an extended period? Department experience is that this often happens with the usual result that the application reviewer must relearn or reanalyze the application before being able to get back up to speed and continue forward. The longer the inactivity, the more review time is required to refresh the reviewer's understanding of the application. The Department currently has a number of applications pending for which the applicants has failed to respond for over 20 years.

In such cases, if the time-frames resume immediately in all cases, the Department must anticipate that possibility and then factor catch-up time into the time-frame periods it sets in rule. In the proposed rule, the Department took a different approach. The proposed rule showed times based on reasonable response times from applicants and provided that failure to make a reasonable response will cause the application to lapse from applicability under Article 7.1. The Department believed this a reasonable result. Applicants are required to submit all components complete at the beginning of the process. Those that fail to do so should be required to respond in a reasonable time so that the Department does not have to rework the application. “Lapse,” in the proposed rule did not mean that the application was no longer active; only that it was no longer subject to Article 7.1 sanction and reporting requirements. The Department believed this a fair balancing to allow shorter times in this rule. It also removed pressure off the Department to issue summary denials for such applications.

In response to objections by GRRRC, the Department has removed all references to “lapse” in today's rule. GRRRC believes that 1 acceptable method under Article 7.1 is for an agency to provide in a licensing time-frame rule that failure by an applicant to respond to a request for more information by a time certain will result in automatic termination of the application and forfeiture of the fee. GRRRC does not believe that an agency, upon failure by an applicant to make a timely response, may continue to review an application unless the application remains subject to Article 7.1 sanction and reporting requirements. The Department determined that today’s rule must not provide automatic application termination provisions. Termination must continue to be governed by the specific statutes and rules that govern each of the programs administered by the Department. For this reason, the Department removed all lapse provisions from today's rule. This means that each program must determine how and when to terminate a pending application when the applicant has taken so long to respond that resumption of review would now require so much relearning and rework of the application that insufficient time remains in the time-frames.

(1) Failure to respond to requests for information. Article 7.1 provides that time-frames are suspended during the time between the Department’s request for missing application components, request for additional information, or supplemental request for information, and the applicant’s response to that request. The proposed rule provided that failure to submit the requested information within a reasonable period of time would result in lapse of the application's applicability to Article 7.1. Under today's rule, that is not the case. Instead, the Department must determine when a suspension has been so long that resumption of time-frames will not allow the Department adequate time to complete its review of the application. Here, the Department must take steps to make a final licensing decision on the application in the absence of a response.

(2) Failure to pay application fees. Article 7.1 does not address the consequences of an applicant’s failure to pay fees other than to imply a summary or eventual denial. Fees are an application component. Other rules require that

certain license applications incur fees in phases and sometimes not until the Department concludes its substantive review of the application. In these cases, fees are not known at the beginning of the application review period because other rules require that they be incurred on an hourly basis. Department experience has been that collection of fees after issuing a license is problematic and that withholding the grant of the license until the receipt of fees has sometimes been the only effective way to obtain the fees. In addition, the time necessary for an applicant to submit a final fee after receiving a bill may vary considerably. Local governments often require significant time to authorize and make payment.

In response, the proposed rule provided a suspension provision to handle the matter. As stated in the notice of proposed rule making, the alternative was to extend the times on affected categories by a considerable period. If not, certain applicants, such as local governments, might not ever be able to submit final payment prior to expiration and therefore be subject to summary denial.

GRRC objected to this suspension provision and the Department has deleted it from today's rule. The Department is not sure how to proceed on this matter or how to address the difficulties for applicants that this now presents. The Department, however, is taking steps to do what it can to provide applicants a reasonable alternative to summary denials.

(3) Substantial change to the application. Article 7.1 requires the Department to adopt specific time-frame periods within which the Department is strongly encouraged to make licensing decisions. This requirement anticipates that the days the Department assigns prospectively to each license category will be based on certain assumptions concerning the type and complexity of the licensing activity. It follows that if the licensing type or complexity substantially changes in mid-review (during Department review of the application) due to unilateral action on the part of the applicant, the Department should give the applicant a chance to reconsider the change or enter into a changed application agreement so as to move forward without restarting the process over from the beginning.

In the proposed rule, the Department had determined that Article 7.1 did not intend time-frames to continue to run against the Department on an application whose nature has been substantially changed by the applicant pending resolution of the change, because a substantially changed application is essentially a new application requiring different time-frames and possibly different application review fees. Under the proposed rule, should the Department determine that an applicant had, in fact, changed the application with subsequent submittals, the Department would suspend the clocks for a short time to allow the applicant an opportunity to determine whether to continue with the original application or change and pursue a new application. The Department stated in the notice of proposed rule-making that failure to provide breathing space in the form of suspension would mean increased summary denials. Department experience has been that applicants in certain licensing programs always or almost always change application proposals at least once during the review process. The Department believed that applicants must have the ability to continue to have this ability without suffering the penalty of withdrawing 1 application in order to submit a new application with the changed proposal along with a new fee. The Department did not believe this result was required by Article 7.1.

GRRC objected to this suspension provision and the Department has deleted it from today's rule. Now, when the Department determines that an applicant has changed its application, the time-frames will continue to run while the applicant take steps to either withdraw the change (and proceed with the original application), enter into an a changed application agreement, or withdraw the application and resubmit with a new fee. During this time, the time-frames will be running against the applicant, not the Department.

(4) Emergencies and upset conditions. This rule allows moratoria on the starting of time-frames and the suspension of time-frames on application in process due to emergencies and upset conditions but only for very specific and narrow purposes. The inclusion of this suspension provision allows the Department to shorten all time-frame periods in this rule because this provision eliminates the need to factor in the risk that certain events will prevent the Department from processing applications when those events are beyond the Department's control. This rule limits this ability to suspend only for license categories subject to sanctions. This is because it is the duty of the Department to control its funds for the benefit of the public and to ensure that licensing programs remain solvent and available to process license applications when applicants so desire.

g. License denials and administrative appeals of licensing decisions.

A.R.S. §§ 41-1092 through 41-1092.12 govern the process by which decisions and actions by the Department are administratively appealable. Generally, a licensing decision or action that is determinative of the legal rights, duties, or privileges of an applicant is administratively appealable through the office of administrative hearings in the department of administration. This also means that a licensing decision that does not conclusively determine the legal rights or duties of the applicant is not administratively appealable.

Arizona Administrative Register
Notices of Final Rulemaking

The Department has determined that licensing decisions that determine an applicant's legal rights, duties, or privileges include the denial or conditional grant of a license and, therefore, are administratively appealable. On the other hand, unconditional grants are not administratively appealable because the applicant is being granted what it asked for in the application without additional conditions. If the Department grants what the applicant requested there can be no actual controversy over the Department's decision.

Under this rule, notices of administrative deficiencies and requests for additional information are not administratively appealable. They are not determinative of an applicant's legal rights or duties because the applicant is able to require the Department to reconsider its decision to issue the notice under R18-1-520.

h. Sanctions.

A.R.S. § 41-1077 specifies the instances in which sanctions apply for failure of an agency to make a timely licensing decision. Generally, these sanctions apply only if the license category is identified in the time-frames rules, the application is subject to substantive review, a fee is charged for reviewing the application, and the fee is deposited into a Department-controlled fund. The Department must continue review and reach a licensing decision on the application even if sanctions apply.

(1) Refunds and fee excusals. A.R.S. § 41-1077(A) requires that an agency must refund to the applicant all review fees already paid and must excuse review fees not yet paid if the agency fails to make a timely licensing decision. Based on the language of that provision, the Department has determined that the refund amount is only that actually remitted by the applicant for the specific application and does not include interest.

A.R.S. § 41-1077(A) also provides that the refund must be made from the same fund in which the application fee was originally deposited. The Department has determined that it may make a refund from a fund into which a fee was originally deposited only if the fund itself is under the Department's direct control. If the fund into which the fee was deposited is not under the Department's direct control, then the Department has no authority to make the refund. Fees deposited into the state general fund, for example, are not subject to refund because the Department has no authority to make an appropriate from that fund.

This determination has little actual effect upon the Department. Fees for very few license categories are deposited in the state general fund. Mostly they the operator certification licenses on Table 9. The Department has no history of making late decisions on these licenses. The other example is the pesticide licenses on Table 10. The application fees for these are deposited in a department of agriculture controlled fund. The Department has no experience of making late decisions on these licenses either.

(2) Penalties. A.R.S. § 41-1077(B) requires that an agency must pay a penalty into the state general fund for each month after the expiration of the overall time-frame or time-frame extension during which the agency has yet to make a licensing decision and which remains outstanding on the last day of the month. The amount of the penalty is 1% of the what the total application fee would have been had the Department made a timely decision. This qualification is necessary because an application may still continue to accumulate review charges at the time the penalty is due or an applicant may not have yet made all fee payments.

(3) Annual compliance reporting. A.R.S. § 41-1078 requires each agency to submit an annual report to the governor's regulatory review council (GRRC) containing the agency's compliance level with its overall time-frames. The report must include the number of licenses issued or denied within applicable time-frames and the amount of sanctions assessed for untimely decisions. The Department has determined that only activity for license applications subject to Article 7.1 requirements is to be addressed in the annual GRRC report.

4) The Licensing Process Must Remain Flexible to the Maximum Extent Practicable.

Article 7.1 expressly provides for supplemental request agreements and time-frame extension agreements. This rule contains formal procedures for 4 additional licensing time-frame agreements for the benefit of applicants.

a. Licensing time-frame supplemental request agreements.

A.R.S. § 41-1075(A) provides that during the substantive review time-frame, an agency and an applicant may mutually agree in writing to allow the applicant to submit supplemental requests for additional information. According to the statute, the substantive review time-frame and the overall time-frame are suspended from the date the request is issued until the date the agency receives the additional information. The Department has determined that such suspensions must be based on missing information required in statute or rule and that the agreement cannot be entered in to merely to obtain additional calendar time.

b. Licensing time-frame extension agreements.

A.R.S. § 41-1075(B) provides that an agency and applicant may by mutual written agreement extend the substantive review time-frame and overall time-frame so long as the extension does not exceed 25% of the overall time-frame. The Department has determined that the basis of determining the 25% is to be the presumptive overall time-frame as indicated on the proposed tables.

c. Licensing time-frame opt-in agreements.

This rule contains a provision to allow certain applications pending at the time of the effective date of this rule to become subject to the rule should both the applicant and Department agree. The Department has determined that it has the authority to enter into these agreements under Article 7.1 for the benefit of applicants.

d. Other licensing agreements.

A.R.S. § 41-1004 allows a person to waive any right conferred under the administrative procedure act (APA) which includes Article 7.1. The Department has determined that the objective of this statute, as it applies to Article 7.1, is to permit a license applicant to deviate from licensing time-frame requirements that are generally applicable by rule so long as the resulting licensing process more closely suits the applicant's needs while still responding to the primary statutory objectives of Article 7.1. To this end, today's rule offers 2 additional time-frame agreement provisions: pre-application and changed application licensing time-frame agreements. Both respond to applicants' needs. The Department has determined that it has authority to enter into these agreements for the benefit of applicants.

5) Time-frame Rules Must Take into Account 8 Statutory Considerations.

Article 7.1 requires the Department to consider 8 specific factors when adopting time-frames although no guidance is offered to assist in interpretation or application of the factors. Several of the factors do not seem relevant to the statutory thrust of Article 7.1 in that they direct agencies to consider matters that go beyond the immediate task of assigning days to time-frames. Each factor is considered in turn.

a. Licensing subject matter complexity.

Article 7.1 requires the Department to consider "the complexity of the licensing subject matter" when adopting time-frames. A.R.S. § 41-1073(C)(1). This probably means that licenses that do not require complex or lengthy application requirements and involve only routine or cursory substantive review should have short time-frames with little agency or applicant flexibility. More complex licenses may require longer time-frames perhaps with increasing agency and applicant flexibility as the licensing subject matter becomes more complex.

Licenses issued by the Department vary from simple registration licenses with no substantive review to extremely complex licenses requiring highly technical and individualized substantive review. This is due in great part to the Legislature requiring that many of the relevant application components for most of the more complex licenses be developed, formulated, and selected by applicants, not the Department. This is desirable as applicants are probably the best judge of what approach to a licensing requirement makes the most economic or practical sense. Although beneficial to applicants and ultimately to all of society, this applicant driven approach in the formulation of specific application components places an extraordinary burden on the Department.

It is not unusual that an applicant will propose a new technique or new form of equipment never seen previously by the Department. In an effort to accommodate the applicant's request, a reviewer may spend considerable additional time to examine and evaluate the proposal. It may become clear only after a certain amount of substantive review that additional information is required to proceed further. Alternatively, reviewer comments or questions may lead an applicant to decide to withdraw the proposal and substitute a different proposal. In the past, the Department has usually continued with the review to accommodate the applicant's change although this means further review and additional time.

5) Adoption Considerations.

A.R.S. § 41-1073(C) requires agencies to consider and balance 8 factors when adopting licensing time-frames. These are analyzed in turn below. In summary, the Department has recognized 2 applications of these considerations. The 1st applies when the Department 1st establishes licensing time-frames on existing licensing programs. The 2nd applies when the Department is developing or revising new or existing licensing programs so as to fit within an existing licensing time-frame rule. This rule addresses only the 1st of these 2 applications. In this regard only the 1st 4 considerations apply when 1st establishing a licensing time-frame rule intended to overlay existing licensing programs and when developing or revising new or existing licensing programs. The last 4 considerations can only apply to the development or revision of a new or existing licensing program due to the nature of the considerations.

All the flexible provisions of this rule flow from these statutorily required considerations: the licensing time-frame agreements, the various suspension provisions, the splitting of categories to allow applicants a more comfortable fit between actual requirements and necessary review time, and the numerous opportunities to cure unapprovable appli-

Arizona Administrative Register
Notices of Final Rulemaking

cations. The time-frames shown in this rule are a direct result of these considerations. As the above provisions are removed from the rule, the longer the review times must become in order to compensate for the increased burden placed upon applicants to comply prior to expiration of the time-frames. The rule as proposed represented the best balance of all these competing forces for the benefit of applicants. This balance as expressed in today's rule has changed only as necessary in order to obtain GRRC approval of the rule.

a. Licensing subject matter complexity.

This factor is required by A.R.S. § 41-1073(C)(1) and requires the Department to consider the complexity of the licensing subject matter when adopting licensing time-frames. The Department has applied this consideration to every license category in this rule. This has resulted in many of the flexible provisions offered for the benefit of applicants including (1) splitting certain basic categories into subcategories with different times to reflect more closely the actual review needs for individual applications, (2) allowing numerous opportunities to cure unapprovable applications to allow applicants to stay in the application process rather than face summary denial, and (3) allowing opportunities for an iterative process to the maximum extent permitted by Article 7.1.

b. Agency resources.

This factor is required by A.R.S. § 41-1073(C)(2) and requires the Department to consider the resources of the agency granting or denying the license when adopting licensing time-frames. The Department has applied this consideration to every license category in this rule. This has resulted in many of the same results in this rule as discussed in the preceding paragraph. For fee-funded programs, this has also meant that the Department must diligently work towards timely licensing decisions so as to avoid refunds and the resulting inability to service later applicants due to diminishment of the program. For applicants, this means a higher risk of denials for unapprovable applications. For these reasons, this rule offers numerous opportunities for applicants to cure unapprovable applications prior to expiration.

c. Economic impact of delay on the regulated community.

This factor is required by A.R.S. § 41-1073(C)(3) and requires the Department to consider the economic impact of delay on the regulated community when adopting licensing time-frames. The Department has applied this consideration to every license category in this rule. This includes the recognition that none of the license categories in this rule may be granted by default. This means that, in every case, state law requires applicants to prove their right to obtain a license before the Department has authority under the law to grant the license. To this end, the Department has provided flexibility in this rule to allow applicants opportunities to cure unapprovable applications, continue in the application process rather than face a summary denial, and proceed forward to the completion of an approvable application as quickly as possible.

d. Public health and safety.

This factor is required by A.R.S. § 41-1073(C)(4) and requires the Department to consider the impact of the licensing decision on public health and safety when adopting licensing time-frames. The Department has applied this consideration to every license category in this rule. The Department has determined that the issuance of licenses earlier, rather than later, benefits public health and safety. To this end, the considerations discussed above and the resulting flexibility in this rule designed to encourage early approvals rather than repeated denials implements this required adoption consideration.

e. Use of volunteers.

This factor is required by A.R.S. § 41-1073(C)(5) and requires the Department to consider the possible use of volunteers with expertise in the subject matter area when adopting licensing time-frames. The Department does make use of volunteers in several programs. Department experience is that volunteer help is neither a predictable resource nor a dependable source of personnel or expertise. This means that reliance on volunteer assistance increases, not decreases, the Department's ability to manage shorter, dependable review times. For this reason, the Department has not included this consideration in its adoption of licensing time-frames in this initial rule making. It is possible, however, that the use of volunteers could be a viable consideration when establishing or revising an existing licensing program in future once this rule is in effect.

f. General licenses.

This factor is required by A.R.S. § 41-1073(C)(6) and requires the Department to consider the possible increased use of general licenses for similar types of licensed businesses or facilities when adopting licensing time-frames. The term "general license" has a number of different meanings that range from classic general licenses (not issued by the Department) to individual issued licenses with the word "general" in their name as identified in statute. See discussion at § 6(C)(3)(a) above for a discussion of license processing models. The use of classic general licenses (Model

A) always requires a higher emphasis and resource allocation to regulate through after-the-fact enforcement activity rather than through before-the-fact licensing. In this regard, the Department's current identification of required licensing models, including the identification of classic general licenses, is based on its understanding of what is required in statute. To the extent that the Department may have discretion to choose a classic general license regulatory scheme over an issued license regulatory scheme, such policy decisions must occur during the development or revision of those regulatory programs and not in this rule making. Once such a decision is made, however, the immediate effect is that classic general licenses are not subject to Article 7.1 licensing time-frame requirements. In this regard, this rule does not include classic general licenses.

The Department, however, has proceeded to apply this consideration to regulatory programs currently in development or under consideration for revision. One example is the self-certification program in the solid waste section currently under development. As a result of the application of this consideration, the program is exploring regulatory alternatives that shift certain licensing from licenses issued by the Department (and thus subject to licensing time-frames) to classic general (Model A) or notice (Model B) licenses (not requiring licensing time-frames). Similar processes are underway in other programs.

g. Agency cooperation.

This factor is required by A.R.S. § 41-1073(C)(7) and requires the Department to consider the possible increased cooperation between the agency and the regulated community when adopting licensing time-frames. The Department is unclear as to the proper role that this consideration should factor in the adoption of licensing time-frames. Even so, it appears to represent basic policy considerations inherent in the establishment or revision of a licensing program rather than in the initial adoption of this rule as an overlay on programs with existing licensing programs in place.

The Department, however, has made every effort to propose this rule with as much flexibility for the benefit of the regulated community as the law and resources will allow. In addition, the Department has taken steps to engage and cooperate with the regulated community in this rulemaking through a public outreach program unprecedented in the history of the Department. This included 10 focus groups held in July 1997 in Phoenix, Tucson, and Flagstaff prior to the issuance of a draft rule and 30 half-day workshops held in October 1997 through September 1998 to review and discuss the specifics of the rule and license tables in Phoenix, Tucson, Flagstaff, Bullhead City, Cottonwood, Show Low, and Yuma.

h. Agency flexibility.

This matter is required by A.R.S. § 41-1073(C)(8) and requires the Department to consider increased agency flexibility in structuring the licensing process and personnel when adopting licensing time-frames. The Department was unclear as to the proper role that this consideration should factor in the adoption of licensing time-frames and invited comment on this point in the notice of proposed rule making. No formal comment was received.

F. Rule Impact Reduction Analysis.

The Department must perform a rule impact reduction analysis in accordance with A.R.S. § 41-1035 prior to proposing a rule if that rule may have an adverse impact on small businesses. The Department has determined that the licensing time-frames rule will have at least some adverse impact on small businesses. This is because all applicants will be exposed to a certain degree of adverse impact. The Department has not identified any impact that will be uniquely borne by the class of small businesses. This analysis addresses the provisions of this rule.

1) Analysis Requirements.

A.R.S. § 41-1035 ("this Section") of the Administrative Procedure Act (APA) requires the Department to reduce adverse impacts of a proposed rule on the class of small businesses by using 1 or more of the 5 methods defined in this Section if the Department finds that the methods are legal and feasible in meeting the statutory objectives which are the basis of the proposed rule making. The Department has determined that the statutory objectives of this Section require that (1) these reductions are mandatory, (2) the Department may not impose any requirements on small businesses as a class not directly required by statute, (3) the Department must reduce rule impact on the class to the maximum extent permitted by its delegated authority, and (4) nothing in this Section authorizes the Department to formulate alternative rule impact reduction proposals regarding the class of small businesses. The power to propose alternatives implies discretion in the choice between alternative degrees of impact, something not permitted by this Section.

2) The Arizona Class of Small Businesses.

The analysis requires identification of rule impacts specifically on the class of small businesses. The Legislature has defined this class with precision at A.R.S. § 41-1001(20). To qualify, a member of this class must be a concern, including its affiliates, which (1) is independently owned and operated, (2) is not dominant in its field, and (3) employs fewer than 100 full-time employees or had gross annual receipts of less than 4 million dollars in its last fiscal

year. For purposes of a specific rule, an agency may define the class of small businesses to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations. The Department has determined that the statutory objectives of this definition do not authorize the Department to stray outside the statutory definition when considering the class governed by the rule reduction requirements of this Section. This means that the Department may not consider larger, smaller, or substitute classes that include members who do not conform to the ownership, field dominance, full-time employee, and gross annual receipt characteristics required by the Legislature for inclusion. Rule impact reduction for some or all members of this class, however, may occur under authority derived from statutes other than the APA.

3) Subsidies and Cost Shifting.

The issue of the Department's duty to subsidize or shift costs away from the class often arises within the context of the required analysis. The Department has determined that the statutory objectives of this Section do not authorize the Department to (1) subsidize the class or shift cost burdens imposed by the class onto others or (2) consider and propose subsidies or cost shifting alternatives. Granting subsidies to 1 class must inevitably shift a greater burden to other classes. The US Department of Commerce Bureau of the Census estimates that as many as 98% of all business establishments in Arizona may qualify as members of the class of small businesses as defined by the Legislature (based on the employee size characteristic alone). This means that even a small amount of cost shifting may result in significant additional burdens on others with perhaps as few as 2% of Arizona businesses required to bear the cost burdens of the other 98%. Moreover, the mandatory language of this Section permits no agency discretion in determining the extent of impact reduction should the agency determine that reduction is possible under this Section. This means that if the Department does have discretion to consider subsidies or cost shifting under this Section, then probably it must shift 100% of the costs away from the class. A proposal to shift a smaller amount, say only 50%, implies discretion in the choice of how much of the impact should be reduced on the class and shifted to others. The mandatory language of this Section does not permit such discretion. The Department has determined that such a blanket exemption from all costs for this class is not an objective of this Section. It follows that authority to subsidize or cost shift, if it occurs, must come from statutes other than the APA.

4) Compliance, Reporting, Scheduling, and Deadline Requirements.

Methods 1, 2, and 3 in A.R.S. § 41-1035 require the Department to identify compliance, reporting, scheduling, and deadline requirements contained in a proposed rule and, when legal and feasible, to reduce, consolidate, or simplify them for applicants who fall within the class of small businesses. The Department has determined that the relevant statutory objectives of the licensing time-frames statute (Article 7.1 of the APA) establish the need for certain minimum compliance, scheduling, and deadline requirements to which the Department has not added in this proposed rule.

a. Compliance requirements.

(1) Initial application submittal. The relevant statutory objectives of Article 7.1 require applicants to submit all required application components in the initial submittal. The Department has determined that this proposed rule (at R18-1-503(A) defining the contents of an initial submittal) follows the minimum statutory compliance requirements applicable to all applicants whether or not they fall within the class of small businesses. The Department has determined that the exception to this requirement contained within this proposed rule (at R18-1-508 for phased application agreements) is the result of harmonizing competing statutes and is required to be based on the subject matter of the application and not whether the applicant falls within the class of small businesses.

(2) Response to notices of application deficiencies. The relevant statutory objectives of Article 7.1 require applicants to submit complete responses to Department notices of administrative deficiencies made within the administrative review completeness review time-frame. The Department has determined that this requirement is based on the subject matter of the application and not whether the applicant falls within the class of small businesses.

(3) Response to requests for additional information. The relevant statutory objectives of Article 7.1 require applicants to submit complete responses to Department requests for additional information made in the substantive review time-frame. The Department has determined that this requirement is based on the subject matter of the application and not whether the applicant falls within the class of small businesses.

b. Reporting requirements.

The Department has determined that this proposed rule contains no reporting requirements for applicants.

c. Scheduling requirements.

Licensing time-frames. The relevant statutory objectives require the Department to establish in rule the administrative completeness review and substantive review time-frames for each type of license it issues subject to Article 7.1.

The Department has determined that this proposed rule follows the minimum reasonable statutory scheduling requirements applicable to all applicants whether or not they fall within the class of small businesses. The several exceptions contained in this proposed rule (such as different time-frames for standard/complex and with/without a public hearing) are based on the subject matter of the application and not whether the applicant falls within the class of small businesses. The exceptions contained in this proposed rule (at R18-1-518 for emergencies and upset conditions) are based on circumstances beyond the control of the Department and not whether the applicant falls within the class of small businesses.

d. Deadline requirement.

Today's rule contains no deadline requirements.

5) Performance Versus Design or Operational Standards.

Method 4 in A.R.S. § 41-1035 requires the Department to identify design or operational standards contained in a proposed rule and, when legal and feasible, to replace them with performance standards for applicants who fall within the class of small businesses. Design or operational standards are prescriptive ("cook book") standards that specify how each step in a regulated process shall be done but do not specify the desired end result. Performance standards are standards that specify the desired end result but do not specify exactly how that end result is to be achieved, leaving the determination of that process up to the regulated entity. The Department has determined that today's rule contains no design or operational standards within the meaning of this Section.

6) Rule Exemption for Small Businesses.

Method 5 in A.R.S. § 41-1035 requires the Department to exempt applicants who fall within the class of small businesses from all requirements of a proposed rule if legal and feasible. The Department has determined that the relevant statutory objectives require (1) the rule to apply to all applicants whether or not they fall within the class of small businesses and (2) classes recognized by the rule may only be based on the subject matter of an application and not whether the applicant falls within the class of small businesses. The Department has set compliance, reporting, scheduling, deadline, performance, design, and operational requirements as low as reasonably permitted by statute for all applicants who may be impacted by this proposed rule. The Department has determined that exemptions, should they occur, would only serve to increase, not decrease, the burden of this rule on the class of small businesses. Exemptions from the agreement opportunities identified in R18-1-508 through 513 would only restrict an applicant's options and thus tend to increase burdens. Exemptions from lapse and other suspension provisions would require the development of a 2nd set of licensing time-frames applicable only to applicants falling within the class of small businesses. This 2nd set would have extended times in anticipation of the additional Department time needed to relearn the circumstances of an application when responses come so late that previous processing activities connected with the application must be repeated. This means that small businesses could not be exempted further even if the Department did have discretion to recognize them as a special class under this proposed rule.

7) Findings.

At each step in the process, the Department exercised whatever discretion the Legislature delegated by statute to minimize adverse impacts on the class of small businesses to the maximum extent permitted by the statutory objectives which are the basis of this proposed rule. The Department has taken steps to insure that all adverse impacts on the class of small businesses imposed by this rule are the result only of legislative policy expressed by statute and not by agency discretion. The Department finds, therefore, that it is not legal or feasible in accordance with the statutory objectives which are the basis of this proposed rule to reduce further any possible undesirable impacts of the rule than already accomplished by this proposed rule on license applicants who fall within the class of small businesses and who may be impacted by the provisions contained within this proposed rule.

G. Section-by-section explanation of the rule.

1) Introduction.

Today's rule is within the boundaries of the Department's discretion to act under the statutory mandate of the licensing time-frames statute, A.R.S. Title 41, Chapter 6 (administrative procedure act), Article 7.1 (licensing time-frames). These boundaries are determined by the requirements of Article 7.1, by other statutory obligations, and, where conflicts appear, by harmonizing competing statutory obligations. The Department requested in the October 23, 1998, notice of proposed rulemaking for comment on its determination of the bounds of its discretion to act in this area.

This rule provides a number of provisions designed to provide applicants flexibility in meeting the requirements of Article 7.1. These include 5 sections (R18-1-508 through R18-1-513) governing a variety of bilateral agreements between applicants and the Department. All are intended to allow adjustment of the basic rule to the particular needs of individual applicants. None would be required or mandatory on either applicants or the Department. In practice, the Department expects these provisions to apply only to applications received in the Model E and F (applicant-deter-

Arizona Administrative Register
Notices of Final Rulemaking

mined proposal) license processing categories. (See discussion of license processing models under § 6(C)(3)(a) above.) A program cost issue associated with offering such agreements is the diversion or expansion of program resources to negotiate and administer them. As a result, the extent to which each of the Department's programs will enter into these agreements may vary using 3 consideration factors identified in the rule. These are based, in turn, on the primary statutory considerations for setting times frames under A.R.S. 41-1073(C).

Licensing Model C and D (simple) applications probably will be unaffected in this regard because applicants for these types of licenses typically receive only limited opportunity to cure defective applications and usually no opportunity to make substantive changes in application components. (This is currently the usual practice in most, if not all, state agencies.) As a result, timely licensing decisions in these categories currently are the norm and the Department does not expect to change its general processing of these application types other than as needed to conform with the notice, tracking, and other requirements of Article 7.1. Model C licenses require only simple verification that the application is administratively complete; no substantive review occurs. Model D licenses require substantive review but both models allow no flexibility in the type of information supplied by an applicant. Virtually all applications received in Model C and D (simple) categories in the last fiscal year received timely licensing decisions from the Department.

Licensing Model E and F (applicant-determined proposal) applications, on the other hand, encourage applicants to present proposals for the Department's consideration. These application types are the inevitable result of a licensing process in which only a compliance standard is set (either in statute or rule) and applicants are free to propose methods to achieve the standard. Model E does not require a public hearing on a proposed license. Model F does. It is here that an iterative process becomes increasingly desirable from an applicant's point of view. The more an applicant can float proposals for the Department's evaluation, the more the applicant can explore novel, complex, or unusual solutions to achieve compliance. An iterative process, however, almost always takes time, sometimes considerable time, if the applicant resubmits numerous variations or changes to the original proposal in an attempt to achieve an approvable application or to receive terms and conditions to the applicant's satisfaction. In any case, an applicant may qualify for the license only if the Department determines that the proposal will satisfy the minimum standards required by the license. To this end, this rule contains numerous elements designed to allow applicants opportunities to cure defective applications and work towards an approvable application as quickly and economically as possible. The flexibility expressed in this rule may allow applicants to maintain many of their current advantages in the Department's approach to the processing of Model E and F applications in this regard. Not all of the Department's programs offer the same degree of flexibility today.

The flexible provisions of this rule do extend and complicate the rule presented here. The resulting complexity may be objectionable to the public. As an alternative to providing this flexibility (and resulting complexity), a stricter version could be developed. This approach could leave in only the bare minimum of these elements required by statute. This would extend the Department's current method for processing Model C and D (simple) applications to the Model E and F (application-determined proposal) applications as well. This would encourage (or perhaps force) faster licensing decisions based on complete, fully-formed, unchangeable, and approvable proposals submitted in the 1st instance; something that most applicants for Model E and F licenses do not now do. Inevitably, this means that applicants will have fewer opportunities to cure defective applications prior to expiration of the time-frames. This is sure to result in an increased risk of summary denials and fee forfeitures for applicants. Applicants may have to resubmit applications and fees more than once before being able to achieve an approvable application prior to the review deadline (as is currently the case in the Model C and D (simple) categories such as vehicle emission inspection certifications). This is especially true if an applicant submits novel or highly complex proposals intended to achieve compliance. Applicants applying for licenses that require a public hearing prior to a licensing decision will be under even greater time constraints as no additional time may be available if an applicant desires a hearing postponement to adjust to comments or application deficiencies. This means that an applicant may get just 1 shot at a license before being required to withdraw and resubmit so as to obtain more time.

The Department believes that such a strict version would result in the elimination of all the agreement sections in the rule (except the supplemental request and time-frame extension agreements) as well as all the "standard," "complex," "with no public hearing," and "with a public hearing" categories shown on the Tables. Revised (and condensed) license tables would then show the longest time now shown for the "complex with a public hearing" for all applications received. This is because the Department believes that it must adhere to the longer times so as not to subject program budgets to virtually automatic refunds merely because an applicant's proposal is novel or technically complex or because a public hearing may generate a very large amount of controversy and comment. Whether flexible or strict, however, the Department believes that any resulting rule must contain provisions generally in accord with those now shown for the 9 unilateral action and general provision sections, R18-1-516 through R18-1-524.

2) Explanation of the Rule.

Arizona Administrative Register
Notices of Final Rulemaking

The 22 sections of this rule divide into 5 general parts: 8 sections governing general matters, 5 sections prescribing the operation of the 4 time-frames, 5 sections prescribing the terms of various potential agreements between applicants and the Department, 3 sections governing a number of unilateral actions by the Department, and 1 section incorporating the specific license-by-license requirements prescribed in the 32 license tables (22 basic tables plus 10 additional tables).

R18-1-501. Definitions. This Section defines terms used in this rule. The operation details of “Department notification” and “Department receipt” are described here.

R18-1-502. Applicability; Effective Date. This Section defines the scope of applicability of this rule to Department licenses. Not all licenses administered by the Department are subject to the time-frame sanctions in Article 7.1; only licenses that the Department “issues” are covered and, then, only those issued later than 7 calendar days after receipt of an initial application. Licenses that result from notification requirements but that do not require the Department to issue a written license in response are excluded. Other licenses that do not require the licensee to submit an application are also excluded. Applications received pursuant to an enforcement or compliance order or a notice of violation are also excluded if the action imposes additional or different application components not included in a category on the license tables. This exclusion is necessary as such an action, in effect, requires the use of a license category not on the tables. Department experience is that few actions would actually result in such an exclusion.

Contractual activity, related matters, and compliance activity by licensees is excluded. This last exclusion is limited to activity by a licensee, required by an existing license, and necessary to keep the license in effect. On the other hand, certain compliance activity by a prospective licensee is not excluded and, therefore, may be subject to this Article. This includes license renewal and revision activity as this follows specific language in A.R.S. § 41-1073(B). The exclusion of other compliance activity by licensees is necessary due to the extraordinary extent of such activity administered by the Department annually. This would include many types of routine activity by licensees performed as a condition to maintain the validity of a license. Examples include ongoing inspection reports, other reporting activities, and the conformance of certain conduct with the terms and conditions of a license. The Department has not identified the probable extent of such compliance activity with precision but preliminary analysis strongly suggests that subjecting such activity to this Article would require the addition of considerably more than 2000 categories to the license tables over and above the 476 now shown.

Of those licenses included within Article 7.1's intent for coverage, only those identified on the time-frame tables will be subject to this rule. This Section also clarifies the effective date of the rule and excludes applications already in process before that date. An opt-in provision, however, may be available under R18-1-513 below for those with an application in process when the rule becomes effective and who may desire to subject the remaining term of the application to the rule. **Subsection (A)(7)** clarifies that licenses issued by political subdivisions of the state pursuant to certain agreements with the Department are not subject to this Article. **Subsection (A)(12)** clarifies the effective date of this rule as midnight 2 weeks after filing with the secretary of state. Specifying “midnight” will avoid the statutory default of “noon,” a difficult time to implement as it occurs in the middle of a business day. Specifying 2 weeks will allow the Department and the public to know prospectively the starting date and also allow the Department to make whatever last minute adjustments are necessary should the final rule change. The 2 weeks is necessary because it is GRRC and not the Department that files the final notice. This means that the Department usually does not know until afterwards exactly when a notice has been filed in fact.

Subsection (B) clarifies how to determine which terms of this Article apply to an application if that application is changed or made subject to a time-frames agreement. **Subsection (C)** provides that if other rules conflict with this Article, the other rules govern except that only this Article determines whether an applicant is entitled to a refund or fee excusal in accordance with Article 7.1.

R18-1-503. Administrative Completeness Review Time-frame Operation; Administrative Completeness. This Section prescribes the starting, suspending, resuming, and ending of the administrative completeness review time-frame. **Subsection (A)** identifies the starting of the time-frame and defines the minimum requirements of a 1st submittal sufficient to start the time-frame. The requirement for the submission of all components at the beginning of the process follows the primary thrust of Article 7.1. **Subsection (B)** identifies how to determine the ending of the time-frame.

Subsection (C) clarifies that the time-frame suspends only if the notice so states and contains a list of specific deficiencies. This allows informal communication to continue between the Department and applicants without requiring the formality of time-frame suspensions in every instance. The requirement for a specific list follows language in Article 7.1. The requirement that the notice suspends the time-frame only if it so states is added so that it will operate in the same manner as R18-1-504 comprehensive requests. In addition, it is probable that the time-frame cannot suspend unless express notice of the suspension is given because suspension may appealable agency action requirements under implicate A.R.S. § 41-1092.03.

Subsection (D) provides for automatic resumption of the time-frame upon Department receipt of the applicant's response to the notice but allows the Department 10 days to determine whether the submission is so inadequate that it merits canceling the resumption and turning the time-frame back as if the submission never occurred. This rule provides that after 10 days, however, the Department cannot turn the time-frame back but can suspend the time-frame again with another notice of administrative deficiencies if the administrative completeness review time-frame has not yet expired. If the time-frame has expired, the Department may issue a R18-1-504 comprehensive request instead. This provision is not expressed in Article 7.1 but is a reasonable inference as it addresses the clear possibility of successive incomplete responses by the applicant resulting in advancement of the time-frame a few days at a time toward presumptive administrative completeness in accordance with A.R.S. § 41-1074(C). Department ability to set the time-frame back is bolstered by the overall thrust of that section in that it states that if an agency issues a notice of administrative deficiencies within the administrative completeness review time-frame, the "application shall not be complete until all requested information has been received by the agency." This rule strikes a compromise between the 2 competing forces of that section; on the one hand an agency should not start the substantive review time-frame until it agrees that all information has been submitted while, on the other hand, the general imperative of Article 7.1 is to keep the time-frames moving forward to encourage early resolution of an application. Here, the Department has a short period to reset the time-frame, otherwise the time-frame continues forward despite the possibility of an inadequate response by the applicant. This is more applicant-friendly than the Massachusetts timely action rule (see discussion at § 6(C)(5)). In that rule, an applicant has only 2 chances to make it successfully through administrative completeness review. On the 1st notice of administrative deficiencies, the time-frame starts over from zero. On the 2nd notice, the license is denied and 50% of the fee is forfeited.

Subsection (E) provides for a notice of administrative completeness if appropriate. **Subsection (F)** clarifies that presumptive administrative completeness due to the automatic expiring of the administrative completeness review time-frame does nothing more than start the substantive review time-frame. **Subsection (G)** identifies 1 other section that may control the running of this time-frame. **Subsection (H)** defines a short 5-day period in which the Department can make a determination that the submittal was so defective that it will not be subject to this Article. This means that unless the Department makes such a determination within 5 days, the application is determined to be presumptively sufficient to continue under this Article.

R18-1-504. Substantive Review Time-frame Operation; Requests for Additional Information. This Section prescribes the starting, suspending, resuming, and ending of the substantive review time-frame. The structure of this section follows that of R18-1-503. **Subsections (A) and (B)** identify the starting and ending of the time-frame. **Subsection (C)** clarifies that the time-frame suspends only if the notice so states but that the Department can suspend the time-frame only once using a comprehensive request. This last requirement reflects a specific limitation in Article 7.1.

Subsection (D) provides for automatic resumption of the time-frame upon Department receipt of the applicant's response but allows the Department 15 days to determine whether the submission is so inadequate that it merits canceling the resumption and turning the time-frame back as if the submission never occurred. After 15 days, the Department cannot turn the time-frame back and can only suspend the time-frame again with a R18-1-509 supplemental request agreement. This follows R18-1-503 but with the window of opportunity increased to 15 days. This seems fair as the examination here is one of substantive, not administrative completeness, review. **Subsection (E)** identifies 1 other section that may also control the running of this time-frame.

R18-1-505. Overall Time-frame Operation. This section prescribes the starting, suspending, and ending of the overall time-frame. **Subsections (A) and (B)** identify the operation of the time-frame as acting in concert with the administrative completeness and substantive review time-frames. **Subsection (C)** clarifies that the overall time-frame may be shorter or longer than the just the sum of the time-frame days shown on the license tables due to (1) an early starting of the substantive review time-frame caused by the Department issuing a R18-1-503 notice of administrative completeness, or (2) 1 or more R18-1-510 time-frame extension agreements.

R18-1-506. Time-frame Extension Operation. This section prescribes the starting, suspending, and ending of the time-frame extension. **Subsection (A)** identifies the starting of the time-frame and clarifies that the time-frame must 1st be created by a R18-1-510 time-frame extension agreement. **Subsection (B)** identifies the ending of the time-frame. **Subsections (C) and (D)** clarify that the time-frame responds to R18-1-504 comprehensive requests and R18-1-509 supplemental request agreements. **Subsection (E)** identifies 1 other section that may also control the running of this time-frame.

R18-1-507. Ending of the Time-frames; Licensing Decisions; Withdrawal; Notice of Licensing Time-frames Nonapplicability. This Section harmonizes the Department's duties under Articles 7.1 and 10 of the APA to make certain explanations and inform an applicant of appeal rights in order to make certain licensing actions by the Depart-

ment sufficient to end the time-frames with a reasonable degree of good-faith finality. Article 10 of the APA governs hearings and appeals of certain Department actions under the jurisdiction of the department of administration.

Subsection (A) defines the 3 licensing decisions the Department may make in the application process sufficient to end all time-frames. The application process may terminate for other reasons such as withdrawal (described in subsection (D) below), but these do not represent licensing decisions or affirmative actions by the Department. **Subsections (B) and (C)** clarify that a conditional grant or a denial of a license are Department actions sufficient to end the time-frames if certain notice requirements are satisfied. This means that the imposition of sanctions results only from the Department's failure to reach a licensing decision in a timely manner and not whether that decision will withstand administrative or judicial review. In other words, once the Department has reached a good-faith licensing decision in a timely manner, the possibility of sanctions is foreclosed even if the decision is appealed. So long as the Department acted reasonably in reaching the decision, an administrative or judicial remedy should not impose sanctions even if it orders a change in the licensing decision itself. This makes sense as the Department believes the statutory objectives of Article 7.1 are to encourage timely good-faith licensing decisions resulting in low or no refunds rather than to set up a method to generate refunds as its principal goal.

Subsection (D) identifies when all time-frames end as a result of an applicant's action. **Subsection (E)** provides a formal means for the Department to notify an applicant of a Department determination that the application is, in fact, not subject to this Article. This may occur if an application requests some sort of approval by the Department that does not meet the statutory definition of "license" at A.R.S. § 41-1001(11) meaning "any permission required by law.

R18-1-508. Licensing Time-frames Pre-application Agreements. This Section prescribes the terms of pre-application agreements that may be offered by the Department for the benefit of applicants. None of these agreements are required.

Subsection (A) identifies the general purposes suitable for pre-application agreements made under this Article. **Subsection (B)** prescribes the minimum terms that every pre-application agreement must contain. The agreement must contain a fee adjustment if appropriate and the identification of application components and time-frame days in lieu of those shown on the tables. To this end, the agreement requires the applicant to waive its rights to the number of time-frame days identified on the tables in exchange for the agreement. Applicants are always free to proceed without this type of agreement but, in that case, must comply exactly with the tables. **Subsection (B)(4)** clarifies that time spent in pre-application review may not count toward the running of any of the time-frames. Applicants may spend considerable time in pre-application activities and may confuse the time they spend in preparation to submit an application with the time necessary for the Department to review that application. This clarifies that pre-application activities cannot be used to justify a reduction in the time-frames in the final pre-application agreement. This is because the statute requires applicants to submit complete and approvable applications at the beginning of the review process whether or not the applicant has performed pre-application coordination with the Department. **Subsection (B)(6)** requires a pre-application agreement to identify a specific license category on the license tables within which the application will be processed.

Subsection (C) prescribes additional terms that a pre-application agreement must contain if it allows the applicant to submit certain application components in 1 or more phases in the substantive review time-frame. **Subsection (C)(1)** prescribes that no deduction in time will occur due to the issuance of a notice of administrative completeness and the early starting of the substantive time-frame. This responds to the need to focus on successive application phases within the overall time-frame rather than just the 1 application phase as contemplated by Article 7.1. This means that the applicant gives up the right to the possibility of a shorter time due to the issuance of a 1st notice of administrative completeness in exchange for being excused from submitting all components in that early phase otherwise required. **Subsection (C)(2)** clarifies that completion of the 1st application phase will terminate the administrative completeness time-frame and start the substantive review time-frame. **Subsection (C)(3)** requires the agreement to identify each application phase with a list of application components required and the dates they are due along with an ability for the Department to review each in turn for administrative completeness along lines similar to normal R18-1-503 administrative completeness review including the authority to issue notices of administrative deficiencies. **Subsection (C)(4)** allows the Department to exercise the ability to suspend the time-frames with a R18-1-504 comprehensive request once in each application phase rather than once in the entire substantive review time-frame as contemplated by Article 7.1. The compromises here represent a balancing between establishing fixed times leading to sanctions and the increased work and flexibility needed by the Department to respond to an applicant's desire not to submit all components complete at 1 time and at the beginning of the process.

Subsection (D) identifies the 3 factors that the Department must consider when determining whether to enter into a pre-application agreement. These factors in rule follow 3 of the 8 factors identified at A.R.S. § 41-1073(C). Those 8 statutory factors control the Department's consideration process when adopting time-frames in rule. As such, those factors are also relevant here when considering whether to enter into a licensing time-frames agreement because these agreements, in effect, establish individually tailored time-frames for applicants.

Subsection (D)(1) requires the Department to consider the complexity of the licensing subject matter. The Department realizes that no bright line exists in this regard. On the one hand, some license categories are so simple or have review times so short that expenditures of Department resources into considering and crafting agreements would represent an unreasonably significant demand on the Department resources currently available for that category. This would adversely impact other applicants seeking use of the same Department review resources. On the other hand, even applications in categories with simple review requirements or short review times may sometimes benefit from the use of licensing time-frame agreements. The actual analysis must remain somewhat speculative at this time because the Department has no experience with the use of such agreements. Still, the Department has determined, upon balance, that it is reasonable to assume that the use of agreements will provide significant assistance to applicants in certain circumstances. The Department desires to provide applicants with such flexibility but recognizes that it has limited resources to do so. The Department, therefore, believes that it should concentrate what resources it has to assist applicants in the most complex categories first.

To this end, the rule sets an initial starting point in this regard: pre-application agreements may only be considered for license categories with presumptive substantive review time-frames 90 or more days in length. This does not mean that categories with longer times are automatically entitled to agreements or that ones with shorter times are not; the other factors must also be met in order to qualify. In addition, specific program statutes or rules may support phased applications for review times of less than 90 days. If so, these license categories would also be eligible for pre-application agreements in accordance with R18-1-508(C). Examination of the license tables, however, shows that about half of the license categories have presumptive substantive review time-frames in excess of 90 days. The primary group of categories with times less than the 90-day presumption are in the drinking water and wastewater construction approval categories on Tables 5, 6, and 7. This makes sense because applicant demand in these programs is tied closely with economic growth cycles in Arizona. Setting the initial threshold at 90 days means that initial Department experience with pre-application agreements will occur in other programs, a reasonable result under the circumstances. Operation under this provision will give the Department and the regulated community data and experience to evaluate the reasonableness of this presumption and whether it should be later extended or limited in a future rule making.

Subsection (D)(2) requires the Department to consider the resources of the Department. The analysis of this consideration results, in part, in the 90-day presumption identified in subsection (D)(1) above. In addition, this consideration will also apply when the Department determines that either the negotiation of the agreement itself or the terms of the resulting agreement are likely to require the Department to expend resources to the significant detriment of other applicants also wanting use of Department review resources. This is more likely to occur when large numbers of applicants are competing for limited Department resources within a single program.

Subsection (D)(3) requires the Department to consider the impact on public health and safety or the environment. This means that agreements that provide beneficial impacts on these considerations must be favored over those that do not. In many cases, the Department expects that licensing time-frames agreements will ultimately shorten the time necessary for an applicant to achieve an approvable application. The Department believes that the issuance of permits earlier rather than later serves to promote beneficial impacts on public health and safety or the environment and should be encouraged.

The other 5 consideration factors at A.R.S. § 41-1073(C) are not included in this list of because they are not directly relevant. For example, factor 3 requires the Department to consider “[t]he economic impact of delay on the regulated community.” Here, the Department believes that each applicant is better able to determine if it is in its best economic interest whether or not to request an agreement. This means that the Department will presume that factor 3 is satisfied if an applicant, in fact, requests an agreement. Factors 5 through 8 involve matters more appropriate to Department consideration at the time the Department is developing or revising a licensing program rather than negotiating time-frame agreements with individual applicants.

R18-1-509. Licensing Time-frames Supplemental Request Agreements. This Section prescribes the terms of supplemental request agreements. Article 7.1 identifies and describes such agreements. **Subsection (A)** clarifies that an applicant and the Department may enter into any number of supplemental request agreements with the time-frames suspending each time but that suspensions can last only until the receipt of missing information identified in the agreements. **Subsection (B)** prescribes the minimum terms that every supplemental request agreement must contain. The agreement must identify the missing information requested, specify that the time-frames operate in accordance with R18-1-504 through 506 and not by special terms in the agreement.

R18-1-510. Licensing Time-frames Extension Agreements. This Section prescribes the terms of time-frame extension agreements. Article 7.1 identifies and describes such agreements. **Subsection (A)** clarifies that an applicant and the Department may enter into any number of time-frame extension agreements. **Subsection (B)** prescribes how to determine the base time that, in turn, determines the maximum extent to which the sum of all agreements can extend

the time-frames. The requirement that the base be the presumptive overall time-frame clarifies an ambiguity in Article 7.1. For pre-application agreements that specify an overall time-frame as a certain number of days, that number would substitute for the presumptive overall time-frame. Finally, the subsection clarifies that rounding up major fractions of days does not substantially conflict with the statutory 25% limit. **Subsection (C)** prescribes the minimum terms that every time-frame extension agreement must contain. These terms are simple; the agreement creates an extension time-frame that operates in accordance with R18-1-506.

R18-1-511. Licensing Time-frames Changed Application Agreements. This Section prescribes the terms of changed application agreements. The Department may offer these agreements for the benefit of applicants. The Department expects that such agreements would not be offered for Model C and D (uniform component) application processing types as this follows current practice. Offering these for Model E and F (nonuniform component) application types would also reflect current Department practice in most of these license categories. The alternative to a changed application agreement is for the applicant to withdraw a pending application and resubmit as a new application with the desired changes.

Subsection (A) identifies the nature of the agreement and explains that the agreement causes the time-frames on the superseded application to end. **Subsection (B)** prescribes the minimum terms that every changed application agreement must contain. The agreement must contain a fee adjustment if appropriate and the identification of application components and time-frame days in lieu of the tables. To this end, the agreement requires the applicant to waive its rights to the number of time-frame days identified on the tables in exchange for the agreement. Applicants are always free to proceed without this type of agreement but, in that case, must either continue with the information as submitted or withdraw and submit a new application with a new fee. The purpose of a changed application agreement is to specify the amount of time and fee already spent that can be salvaged in support of a changed application, all for the benefit of the applicant.

Subsection (C) identifies the 3 factors that the Department must consider when determining whether to enter into a changed application agreement. These 3 factors follow those of R18-1-508(D) and are the same except for the 1st factor. Here, the threshold for consideration is set at 30 days. This means that the Department will not enter into a changed application agreement if the presumptive substantive review time-frame agreement is less than 30 days. This excludes approximately 20% of the license categories now shown. Some of these categories, however, may still be available for changed application agreements in accordance with R18-1-502(C) if program statutes or rules provide for such changes. In addition, categories with times longer than 30 days would be excluded if program statutes or rules do not provide an opportunity for changes. The rationale for the 30-day threshold here is similar to the 1 expressed for the 90-day threshold at R18-1-508(D). Some point exists where (1) the use of Department resources to negotiate and implement a changed application agreement significantly and adversely impacts other applicants in the same category and (2) the review times for an application are so short, that requiring an applicant to start over is the fairer requirement. In this regard, the Department believes that the 30-day threshold is a reasonable threshold in this initial rule making.

R18-1-512. This Section is reserved.

R18-1-513. Licensing Time-frames Opt-in Agreements. This Section prescribes the terms of opt-in agreements. The Department may offer these agreements for the benefit of applicants. The purpose of an opt-in agreement is to provide an applicant a means whereby an application not otherwise subject to Article 7.1 would become subject to the provisions of these rules, including sanctions as appropriate. One use would be to subject applications already in process to the terms of this rule when the rule goes into effect. Without an opt-in agreement, such applications are exempted from the rule in accordance with R18-1-502(A)(1). This may ease applicant concerns that such applications might otherwise be ignored should the Department focus its attentions only on new applications subject to time-frames.

Subsection (A) identifies the nature of the agreement. **Subsection (B)** prescribes the minimum terms that every opt-in agreement must contain. The agreement must contain a fee adjustment if appropriate and the identification of application components and time-frame days in lieu of the tables. The intent of these terms is to adjust the impact of this rule to the actual remaining needs of an application process already partially complete.

Subsection (C) identifies the 3 factors that the Department must consider when determining whether to enter into an opt-in agreement. These 3 factors and their rationale follow R18-1-511(C) except that an opt-in agreement must provide for a remaining substantive review time-frame of at least 90 days. The Department has determined that agreements that would provide for shorter times probably represent applications already so close to a licensing decision that expenditure of Department resources to negotiate, implement, and operate the resulting agreements would not provide sufficient benefits to justify their costs to fellow applicants in the same program.

R18-1-514. This section is reserved.

Arizona Administrative Register
Notices of Final Rulemaking

R18-1-515. This section is reserved.

R18-1-516. Reassignment of License Category. This Section prescribes the conditions under which the Department may unilaterally reassign the license category of an application and then notify the applicant of the change.

Subsection (A) provides that the Department may reassign an application to a different category under certain circumstances. The Department must notify the applicant of the reassignment and give a reason. The applicant may reject this change and require the Department to continue review within the original category by submitting a notice of intent to rely on the original license category.

Subsection (B) requires the Department to reassign an application from a category not requiring a public hearing to one so requiring if a hearing is requested. This would occur only for applications where such hearings are required by law once requested. The purpose of this subsection is to allow all applications to be placed into categories not requiring a public hearing when 1st received. Then, if a hearing is never requested, the Department has less time to reach a licensing decision. Alternatively, if a hearing is requested and, therefore, becomes required by law, the application moves automatically into its companion category providing a longer period in which to accommodate the hearing. The alternative to having this provision would be to assume that all applications in such categories may eventually have a hearing and subject all applications to the longer time whether a hearing is ever required or not. The term “public meeting” is also used in this subsection as the underground storage tank (UST) corrective action plan (CAP) rules refers to its public hearing as a public meeting.

Subsection (C) allows the Department to reassign an application from a standard to a complex category under certain conditions. The definition for “complex” at R18-1-501(9) means:

a license application category that requires a significant increase in Department resources in excess of standard application proposals due to size, novelty, complexity, or technical difficulty.

Of the approximately 3,000 to 5,000 applications of the Model E and F (applicant-determined proposal) processing types received annually, Department belief is that if this rule were in effect today, perhaps only 50 applications annually for drinking water and wastewater construction approvals and 20 applications annually in all other programs would fall into this complex category. These few applications, however, could be expected to consume significant amounts of Department resources and could occur in most of the Department's programs. Providing the standard and complex categories shown on the license tables allows the Department to handle such applications in a fair manner. This subsection allows an applicant to protest the change and submit a notice of intent to rely on the license category in effect prior to the change. This option is discussed in more detail at R18-1-521 below.

Subsection (D) clarifies that reassignment under this Section changes only the dates that time-frames on the application will expire.

R18-1-517. Application Withdrawal. This Section prescribes the operation and effect of withdrawn applications as ending all time-frames.

R18-1-518. Emergencies. This Section prescribes the conditions under which the Department may suspend certain provisions of this Article. Two types of suspension are available: (1) a moratorium on the starting of time-frames on new applications and (2) the suspension of time-frames for applications already in process. **Subsection (A)** prescribes that the Director may declare a time-frame moratorium or a suspension but only under certain conditions. **Subsection (B)** prescribes the contents of a declaration. The declaration must include reasons meeting the requirements of subsection (A), identification of the license categories affected, and automatic expiration by a date certain. Individual applications may not be singled out but the Director may restrict a time-frame suspension or moratorium of 1 or more entire categories of licenses to a specified Department application review location such as an individual emissions testing station, a regional office, or a site inspection location. **Subsection (C)** clarifies that the Director may revoke or issue successive declarations to balance the requirement that a declaration must contain a provision to expire by a date certain. This subsection allows the Director to adjust declarations to the specific circumstances giving rise to the emergency or upset condition. **Subsection (D)** clarifies that a declaration under this Section only affects the operation of the time-frames and not the application review activities of the Department. The Department is not prohibited from accepting and processing applications while the declaration is in force. **Subsection (E)** limits the applicability of this Section only to applications subject to sanctions.

This Section represents a balancing of the statutory mandate of Article 7.1 to impose sanctions on licensing funds for late action on applications with other statutory mandates for the Department to maintain financially sound and viable licensing programs, not only to keep the Department programs intact and functioning to maintain state commitments to the federal government but also to be available and open for business when the members of the public choose to submit an application for a license. The Department has determined that the statutory objectives of Article 7.1 are to sanction the Department for inattention and lax management only and not to sanction the Department when forces not

under its direct control intervene to make diligent processing of application reviews impossible. Prior to implementation of Article 7.1, the Department had no need to declare formal application moratoriums. Still, the Department does impose such moratoria from time to time. For example, the Department directs applicants to alternate locations when an entire vehicle emission testing station is temporarily disabled. Without clarification in rule, such a cessation under current practice might entitle applicants who present themselves during the shut-down to a refund (or free license) if the closure exceeds the time shown in the rule for that license category. The same would be true if any application acceptance facility of the Department were temporarily incapacitated due to fire or other reasons. Currently, even if the Department knows that it can not process new applications in a timely manner, acceptance at least puts the new applications in line for eventual review. Review times exceeding statutory or regulatory times may occur but no sanctions would follow. Article 7.1 changes the landscape by creating new constraints on Department actions as well as the introduction of sanctions. This Section responds to those new constraints.

R18-1-519. Public Hearings. This Section prescribes the applicability of the licensing time-frames to the noticing and holding of public hearings when such hearings are required before the Department may grant a license. This Section clarifies that once the substantive review time-frame begins, subsequent suspension or expiration of time-frames will not invalidate notice or hearings. This clarifies an ambiguity in Article 7.1 as A.R.S. § 41-1072(2) requires that “[a]ny public notice and hearings required by law shall fall within the substantive review time-frame.”

R18-1-520. Notice of Intent To Rely on the Application Components as Submitted. This Section responds to certain actions that Article 7.1 requires the Department to take during the pendency of a license application that can be characterized as appealable agency actions subject to the notice requirements of A.R.S. § 41-1092.03 and hearings before a department of administration administrative law judge. At least 2 Article 7.1-required actions fall into this category if they suspend the time-frames: the R18-1-503 notice of administrative deficiencies and the R18-1-504 comprehensive request for additional information. This rule provides other similar instances. The decision to issue the R18-1-503 notice or R18-1-504 request and thus suspend the time-frames probably is determinative of an applicant’s “legal rights, duties, or privileges” subject to A.R.S. §§ 41-1092 through 41-1092.11. On the other hand, modification of the time-frames through supplemental request and time-frame extension agreements are not appealable agency actions because they incorporate the applicant’s agreement to the modifications.

Receipt of the notice or request means that the application is dead unless the applicant does something more. Even if the applicant complies, the date leading to the possibility of sanctions is delayed. An applicant could pursue immediate appeals of R18-1-503 notices and R18-1-504 requests causing needless complications to the operation of the time-frames, a consequence not addressed in Article 7.1. (Do such appeals suspend the time-frames? If they do, what should the operation of the suspensions be? If they do not, does that mean that such appeals will force the time-frames to expire before a licensing decision resulting in inevitable sanctions every time an applicant appeals?) Unlike licensing programs operated by some agencies, applicants for Department licenses may not always be eager to receive them especially when certain duties or obligations begin only upon issuance, especially if the applicant enjoys a shield from enforcement during the pendency of the application (certain aquifer protection permit program licenses, for example). Once an applicant has made an initial application in compliance with the law, using legitimate methods to delay the issuance may make good business sense. The result under the constraints and imperatives of Article 7.1 could be extremely disruptive to the licensing review process and ultimate compliance by the prospective licensee.

In response, the Department has proposed in a separate rulemaking the following new section at R18-1-205. This rule text appeared in the *Arizona Administrative Register* (September 11, 1998) at pp. 2530, 2546, and is repeated here.

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

A. If a license applicant receives from the Department a notice that the application is lacking application components, is substantively deficient, or is otherwise deficient, the applicant, in lieu of submitting some or all of the components identified by the Department, may submit a written notice of intent to rely on the application components as submitted.

B. A notice of intent to rely on the application components as submitted shall include the following:

1. Identification of the applicant.
2. Identification of the license application.
3. Date of the Department notice or request objected to.
4. Identification of the application component or components objected to with reasons for the objection or objections.
5. A statement that the applicant intends to rely on the application components as submitted as the basis upon which the Department may determine whether to grant or deny the license.

C. A license applicant may submit additional license application components or other information at the same time the applicant submits a notice of intent to rely on the application components as submitted.

D. The Department, upon receipt of a timely notice of intent to rely on the license application components as submitted, shall do 1 of the following:

1. Rescind its request for the application component or components objected to in the notice.

Arizona Administrative Register
Notices of Final Rulemaking

2. Modify its request for the application component or components objected to in the notice.
3. Grant the license unconditionally, meaning that the Department did not add conditions not requested by the applicant.
4. Grant the license with conditions, meaning that the Department added conditions not requested by the applicant.
5. Deny the license.

E. A timely notice of intent to rely on the license application components as submitted is one submitted within the time identified on the Department notification or request to which the applicant is objecting or, if the notification or request does not specify a time, within 2 months of receipt of the Department notification or request to which the applicant is objecting.

What these 2 sections do (R18-1-520 here and proposed R18-1-205) is provide the applicant an alternative to compliance with the notice or request. The existence of a choice that requires the Department to reconsider its decision means that the decision no longer meets the definition of an appealable agency action. The choice offered the applicant here is to notify the Department that the applicant intends to rely on the application components as submitted. What this does is allow the Department either to reconsider its decision or, by responding with a decision to grant or deny the license, accelerate the notice or request into a final licensing decision suitable for administrative review outside the Department. This provision follows generally the Massachusetts timely action rule (see discussion on the Massachusetts experience at § I (C)(5) above) and balances Article 7.1's mandate to provide expeditious application review with an applicant's Article 10 right to pursue administrative appeals of certain actions and the Department's duty to inform the applicant of that right. Allowing the applicant to accelerate the notice or request into a final decision to grant or deny the license is a reasonable harmonization of the competing statutory interests. Applicants are not likely to exercise this provision unless they have a good faith reason to believe they are on reasonable ground and that the Department is probably in error. Without this provision, an applicant could choose to appeal any number of times with the worst result (from the applicant's point of view) being that the time-frames might be reset to the date of the appeal. With this provision, a frivolous protest could require Department action resulting in the denial of the permit and the loss of the fee.

Subsection (A) prescribes the conditions when an applicant may proceed under this Section and submit a notice of intent. **Subsection (B)** describes the effect of a Department decision in response to the notice if the Department makes a decision within 15 days after receipt of the notice. **Subsection (C)** limits the time the Department may rescind or modify a notice or request and prescribes the impact of the resulting Department action on the time-frames.

R18-1-521. Notice of Intent To Rely on the License Category. This Section is similar to the notice of intent to rely on application components submitted described immediately above. This applicant notice responds directly to the Department notification of a changed license category in R18-1-515. The structure follows that of R18-1-204 describing the general provisions of the notice. Here, filing of a notice, in effect, cancels the Department's change of category. Whether the Department decides to continue under the time constraints of the previous category or summarily deny the application will probably depend upon the immediate circumstances at hand including the length of time remaining, the nature of the defective application components, the complexity of issues to be resolved, the legal requirement to conduct a public hearing, and the demand for additional Department resources to complete a reasonable review and reach a licensing decision.

R18-1-522. Notice of Change of Applicant's Agent for Receipt of Licensing Time-frames Notices. This Section provides the method by which an applicant may change the designation of its agent for receipt of licensing time-frames notices. **Subsection (B)** provides the minimum information required in a notice to make the change of agent effective. **Subsection (C)** provides that the Department shall notify the applicant upon receipt of the notice and that the change in agent will be effective 3 days after Department receipt or at a later date if identified by the applicant.

R18-1-523. Refunds, Fee Excusals, and Penalties. This section prescribes Department procedures for determining and making license refunds, fee excusals, and penalty payments. **Subsection (A)** clarifies that sanctions may occur only if an application is governed by this Article and requires a fee deposited in a Department fund. This last requirement follows A.R.S. § 41-1077(A) which requires that "[n]otwithstanding any other statute, the agency shall make the refund from the fund in which the application fees were originally deposited." The Department has determined that it has no authority to "make" appropriations from funds not under its direct control. This means that fees required to be deposited into the state general fund, for example, are not available to "make" refunds. Very few license categories on the license tables, however, are subject to this exclusion.

Subsection (B) identifies the 2 findings the Department must make in order to comply with its duties under both Article 7.1 (governing the right to obtain a refund or fee excusal) and A.R.S. § 35-301 (governing the handling of public money) prior to making a refund or fee excusal determination. **Subsection (C)** requires the Department to issue a

Arizona Administrative Register
Notices of Final Rulemaking

refund and make a fee excusal within 15 days (approximately 3 weeks) after making a determination that a refund or fee excusal is required.

These 2 subsections represent a reasonable balancing of Article 7.1's requirement that an agency issue a refund within 30 calendar days of the expiration of the overall time-frame or time-frame extension giving rise to the refund with the reality that the Department is likely not to know within that period that a refund may be due. Massachusetts' experience with refunds for failure to make a timely licensing decision is that most result from clerical failure to properly log in an application or component submittal. The Department expects the same to occur here. This means that the Department, in most cases, must rely on an attentive applicant to make the existence of a right to a refund known to the Department.

Subsection (D) clarifies the amount and scope of the refund and fee excusal. For example, no refund on an underground storage tank (UST) state assurance fund (SAF) reimbursement approval would occur even if the Department were late in making a licensing decision and even if the Department had collected overdue excise tank taxes as a prerequisite to application review. Any monies paid in annual tank fees or excise taxes do not meet the definition of "fee" at A.R.S. § 41-1001(9) meaning "a charge prescribed by an agency for obtaining a license," in this case, meaning the SAF reimbursement license. Any license that may have been created by payment of the annual tank fee is different than the SAF reimbursement license and, therefore, not subject to refund under this Article.

Subsections (E) and (F) govern the calculation and payment of penalties to the state general fund.

R18-1-524. Site Inspections. This Section harmonizes the requirements of Article 7.1 and A.R.S. § 41-1009 governing Department duties concerning site inspections. Here, this rule clarifies that the Department will limit the extent of its site inspections when made as an application component for an application subject to Article 7.1 so that no further notifications or other requirements under A.R.S. § 41-1009 will apply after the inspection is complete. **Subsection (A)** clarifies what constitutes compliance with a site inspection application component. **Subsection (B)** makes clear that a site inspection made in accordance with an application subject to Article 7.1 is strictly limited in scope. **Subsection (C)** clarifies the required information contained in a site inspection report made under A.R.S. § 41-1009.

R18-1-525. Licensing Time-frames: Application Components. This Section references the license tables accompanying this rule. The tables are divided along program lines and contain a numbered category list identifying every license issued by the program that is subject to Article 7.1. Each license contains data in 5 columns. In the 1st column is the license category's specific name followed by its statutory or regulatory authority to assist in identification. In the 2nd and 3rd columns are the number of days allocated to the Article 7.1 administrative completeness and the substantive review time-frames by this rule making. In the 4th column is a determination as to whether the license category is subject to sanctions. License categories identified in this column as not subject to sanctions are still subject to annual reporting requirements to the governor's regulatory review council (GRRC). Finally, in the 5th column are references to application components required of the applicant for administrative completeness.

Table 1: Class I Air Licenses. This table describes the 26 license categories administered by the air quality permits section of the Air Quality Division for Class I permits subject to Article 7.1 licensing time-frame requirements.

Table 2: Class II Air Licenses. This table describes the 19 license categories administered by the air quality permits section of the Air Quality Division for Class II permits subject to Article 7.1 licensing time-frame requirements.

Table 3: Open Burning Licenses Issued by the Phoenix Office. This table describes the 1 license category administered by the air quality permits section of the Air Quality Division for open burning and forest and range management burn permits subject to Article 7.1 licensing time-frame requirements.

Table 3-N: Open Burning Licenses Issued by the Northern Regional Office. This table describes the 1 license category administered by the Northern Regional Office for open burning and forest and range management burn permits subject to Article 7.1 licensing time-frame requirements.

Table 3-S: Open burning licenses Issued by the Southern Regional Office. This table describes the 1 license category administered by the Southern Regional Office for open burning and forest and range management burn permits subject to Article 7.1 licensing time-frame requirements.

Table 4: Vehicle Emission Licenses. This table describes the 2 license categories administered by the vehicle emission section of the Air Quality Division subject to Article 7.1 licensing time-frame requirements.

Table 5: Safe Drinking Water Construction Licenses Issued by the Phoenix Office. This table describes the 11 license categories administered by the safe drinking water section of the Water Quality Division subject to Article 7.1 licensing time-frame requirements.

Arizona Administrative Register
Notices of Final Rulemaking

Table 5-N: Safe Drinking Water Construction Licenses By the Northern Regional Office. This table describes the 11 license categories administered by the Northern Regional Office subject to Article 7.1 licensing time-frame requirements.

Table 5-S: Safe Drinking Water Construction Licenses Issued by the Southern Regional Office. This table describes the 11 license categories administered by the Southern Regional Office subject to Article 7.1 licensing time-frame requirements.

Table 6: Wastewater Construction Licenses Issued by the Phoenix Office. This table describes the 22 license categories administered by the wastewater unit of the Water Quality Division subject to Article 7.1 licensing time-frame requirements.

Table 6-E: Wastewater Construction Licenses Issued by the Enforcement Unit. This table describes the 22 license categories administered by the Water Quality Enforcement Unit subject to Article 7.1 licensing time-frame requirements.

Table 6-N: Wastewater Construction Licenses Issued by the Northern Regional Office. This table describes the 22 license categories administered by the Northern Regional Office subject to Article 7.1 licensing time-frame requirements.

Table 6-S: Wastewater Construction Licenses Issued by the Southern Regional Office. This table describes the 22 license categories administered by the Southern Regional Office subject to Article 7.1 licensing time-frame requirements.

Table 7: Subdivision Construction Licenses Issued by the Phoenix Office. This table describes the 6 license categories administered by the wastewater unit of the Water Quality Division subject to Article 7.1 licensing time-frame requirements. This table is offered as an alternative to the separate subdivision licenses shown on tables 5 and 6.

Table 7-N: Subdivision Construction Licenses Issued by the Northern Regional Office. This table describes the 6 license categories administered by the Northern Regional Office subject to Article 7.1 licensing time-frame requirements. This table is offered as an alternative to the separate subdivision licenses shown on tables 5-N and 6-N.

Table 7-S: Subdivision Construction Licenses Issued by the Southern Regional Office. This table describes the 6 license categories administered by the Southern Regional Office subject to Article 7.1 licensing time-frame requirements. This table is offered as an alternative to the separate subdivision licenses shown on tables 5-S and 6-S.

Table 8: Safe Drinking Water Monitoring and Treatment Licenses. This table describes the 34 license categories administered by the safe drinking water section of the Water Quality Division subject to Article 7.1 licensing time-frame requirements.

Table 9: Water and Wastewater Facility Operator Licenses. This table describes the 8 license categories administered by the Water Quality Division subject to Article 7.1 licensing time-frame requirements.

Table 10: Water Quality Licenses. This table describes the 109 license categories administered by the aquifer protection program (APP) section and reuse unit of the Water Quality Division subject to Article 7.1 licensing time-frame requirements. The APP program consists of 16 basic categories. These are repeated for all licensing review sections and units that administer them. These categories appear within this and other tables as follows.

Table 10, Group I:	Wastewater treatment facility.
Table 10, Group II:	Wastewater treatment facility (with recharge component). (10 categories only.)
Table 10, Group III:	Small BADCT wastewater treatment facility (with designs less than 250,000 gpd).
Table 10, Group IV:	Industrial facility.
Table 10, Group V:	Mine facility.
Table 10, Group VI:	Other discharging facility.
Table 10, Group VII:	Reclaimed wastewater reuse facility. (11 categories only.)
Table 12, Group III:	Nonlandfill solid waste facility.
Table 13, Group IV:	Special waste facility.
Table 14, Group III:	Landfill facility.

Table 11: Surface Water Licenses. This table describes the 3 license categories administered by the surface water section of the Water Division subject to Article 7.1 licensing time-frame requirements.

Table 12: Solid Waste Licenses. This table describes the 18 solid waste license categories administered by the solid waste section of the Waste Programs Division subject to Article 7.1 licensing time-frame requirements.

Table 13: Special Waste Licenses. This table describes the 25 special waste license categories administered by the solid waste section of the Waste Programs Division subject to Article 7.1 licensing time-frame requirements.

Table 14: Landfill Licenses. This table describes the 21 landfill license categories administered by the solid waste section of the Waste Programs Division subject to Article 7.1 licensing time-frame requirements.

Table 15: Medical Waste Licenses. This table is reserved and is intended to receive future medical waste license categories to be administered by the solid waste section of the Waste Programs Division subject to Article 7.1 licensing time-frame requirements.

Table 16: Waste Tire, lead Acid Battery, and Used Oil Licenses. This table describes the 4 license categories administered by the solid waste section of the Waste Programs Division subject to Article 7.1 licensing time-frame requirements in the waste tire, lead acid battery, and used oil programs.

Table 17: Hazardous Waste Licenses. This table describes the 32 license categories administered by the hazardous waste section of the Waste Programs Division subject to Article 7.1 licensing time-frame requirements.

Table 18: Underground Storage Tank Licenses. This table describes the 9 license categories administered by the underground storage tanks (UST) section of the Waste Programs Division and the state assurance fund (SAF) program subject to Article 7.1 licensing time-frame requirements.

Table 19: WQARF Remediation Licenses Issued by the Phoenix Office. This table describes the 11 license categories administered by the remedial projects section of the Waste Programs Division subject to Article 7.1 licensing time-frame requirements. This includes the water quality assurance revolving fund (WQARF) and superfund remediation programs.

Table 19-S: WQARF Remediation Licenses Issued by the Southern Regional Office. This table describes the 8 license categories administered by the Southern Regional office subject to Article 7.1 licensing time-frame requirements.

Table 20: Voluntary Program Remediation Licenses. This table describes the 3 license categories administered by the voluntary projects section of the Waste Programs Division subject to Article 7.1 licensing time-frame requirements.

Table 21: Pollution prevention licenses. This table describes the 1 license category administered by the pollution prevention section of the Waste Programs Division subject to Article 7.1 licensing time-frame requirements.

Table 22: Multi-program licenses. This table describes the 1 license category administered jointly by more than 1 division in the Department subject to Article 7.1 licensing time-frame requirements.

H. License-by-license Explanation

1) Table 1: Class I Air Licenses

a. Licenses subject to Article 7.1 licensing time-frame requirements.

The Department issues the following licenses as part of the state's implementation of the Arizona state operating permit (SOP), prevention of significant deterioration (PSD), and new source review (NSR) programs in accordance with A.R.S. § 49-421 through 49-467 and administered by the Department's Air Permits Section of the Air Quality Division. State law requires the programs to operate in harmony with the Clean Air Act (CAA) as prescribed in 40 C.F.R. §§ 60 and 70. Class I refers to the category of licenses identified at R18-2-302(B)(1).

The Department issues the following Class I licenses in all 15 counties for certain sources identified in A.R.S. § 49-402 and in all counties except Maricopa, Pima, and Pinal for other Class I sources. These 3 counties administer air pollution control programs of their own under authority granted by A.R.S. §§ 49-471 through 49-516 and issue licenses equivalent to those identified below for those other Class I sources. The Department's Class I air program governs approximately 35 sources.

The following Class I air license categories appear on Table 1 with the same corresponding numbers shown here in parentheses. The arrangement of licenses categories on this Table is as follows.

Individual Class I air permits.

Group I: Individual Class I prevention of significant deterioration (PSD) licenses.

Standard Class I PSD major source permit with no public hearing (1).

Standard Class I PSD major source permit with a public hearing (2).

Complex Class I PSD major source permit with no public hearing (3).

Complex Class I PSD major source permit with a public hearing (4).

Arizona Administrative Register
Notices of Final Rulemaking

Group II: Individual Class I new source review (NSR) licenses.
Standard/complex and with/without a hearing as in Group I (5-8).

Group III: Individual Class I other major source licenses.
Standard/complex and with/without a hearing as in Group I (9-12).

Group IV: Individual Class I renewal licenses.
Standard/complex and with/without a hearing as in Group I (13-16).

Group V: Individual Class I transfer, amendment, and revision licenses.
Class I transfer (17).
Class I administrative amendment (18).
Class I minor revision (19).
Class I significant revision: standard/complex and with/without a hearing as in Group I (20-23).

General Class I air permits.

Group VI: Authority to operate (ATO) under Class I general permit licenses.
Class I general permit coverage petition (24).
Class I general coverage ATO new permit (25).
ATO renewal permit (26).

Group I: Individual Class I prevention of significant deterioration (PSD) licenses. These licenses are authorized and identified at A.R.S. § 49-426 and A.A.C. R18-2-302 and R18-2-406. These licenses are subject to sanctions because they require application review fees that are deposited into a Department fund and the applications require substantive review. Application components are identified in rule at R18-2-304, R18-2-402 and R18-2-406 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326.

For the standard category with a public hearing (Category 2 below), Table 1 shows 41 business days for the administrative completeness review and 251 business days for the substantive review time-frames. This is equivalent to the 60 calendar days and 12 months identified at R18-2-304 although these times apply to a definition of administrative completeness, scheduling, and review activities that vary from those presumed in Article 7.1. The review times in R18-2-304 are tied to specific review times, definitions, activities, scheduling, sequencing, and duties required by A.R.S. § 49-426 to follow CAA requirements for Title V state operating permits. This means that an applicant may receive different types of notices relating to application completeness; some relating to the operation of this rule and implementing Article 7.1 requirements and others relating to R18-2-304 and implementing CAA requirements incorporated by § 49-426. This result is unavoidable due to fundamental differences in the statutes. For example, the CAA requires that the 60 calendar-day administrative completeness review start over to zero days if the Department issues a notice of administrative deficiencies. Article 7.1 prohibits this result. The Department has determined to resolve these types of conflicts by operating the 2 clocks separately; 1 clock operated in accordance with Article 7.1 and used only to determine the applicability of sanctions; a 2nd clock operated in accordance with § 49-426 and used only to determine compliance with CAA.

The Department has limited experience with these license categories. In all 12 new major source Class I license categories (contained in Groups I, II, and III on Table 1), the Department has issued 2 licenses since 1993 and has 3 applications pending. Of these, the Department believes that perhaps 1 might qualify as falling within 1 of the “complex” categories described below.

The Department expects that all applications for licenses in this category group would be received 1st in Category 1 (“standard”). Should a public hearing be requested, the Department will reassign the application to Categories 2 or 4 (“with a hearing”) in accordance with R18-1-516(A). The Department may reassign an application to Categories 3 or 4 (“complex”) in accordance with R18-1-516(B) if the Department determines that the application requires a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. “Complex” as used in this rule is defined at R18-1-501(9).

(1) Standard Class I PSD major source permit with no public hearing. This is a Model E (no hearing) license. (See discussion of license processing models at § 6(C)(3) above). Table 1 shows this license category with the days described above except that the substantive review time-frame is shortened from 251 business days to 219 business days. This represents a reasonable time reduction of 32 business days (approximately 45 calendar days) should the application not require a public hearing prior to the Department making a decision to grant the license.

Arizona Administrative Register
Notices of Final Rulemaking

(2) Standard Class I PSD major source permit with a public hearing. This is a Model F (with a hearing) license. (See discussion of license processing models at § 6(C)(3) above). Table 1 shows this license category with the days described above.

(3) Complex Class I PSD major source permit with no public hearing. This is a Model E license. Table 1 shows this license category with the days described for Category 1 above except that the substantive review time-frame is increased from 219 business days to 281 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

(4) Complex Class I PSD major source permit with a public hearing. This is a Model F license. Table 1 shows this license category with the days described for Category 2 above except that the substantive review time-frame is increased from 251 business days to 313 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

Group II: Individual Class I new source review (NSR) licenses. These licenses are authorized and identified at A.R.S. § 49-426 and A.A.C. R18-2-302 and R18-2-403. These licenses are subject to sanctions because they require application review fees that are deposited into a Department fund and the applications require substantive review. Application components are identified in rule at R18-2-304, R18-2-402 and R18-2-403 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326. The structure, time-frames, operation, and rationale for these license categories (Categories 5-8) are the same as described for Group I above.

(5) Standard Class I NSR major source permit with no public hearing. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Table 1 shows this license category with the days described for Category 6 ("Standard") except that the substantive review time-frame is shortened from 251 business days to 219 business days. This represents a reasonable time reduction of 32 business days (approximately 45 calendar days) should the application not require a public hearing prior to the Department making a decision to grant the license.

(6) Standard Class I NSR major source permit with a public hearing. This is a Model F license because substantive review of non-uniform application components and a public hearing are required. Table 1 shows this license category with the days described for Group I above for standard applications requiring a public hearing: 41 business days (approximately 2 months) for the administrative completeness review time-frame and 251 (approximately 1 year) for the substantive review time-frame.

(7) Complex Class I NSR major source permit with no public hearing. This is a Model E license. Table 1 shows this license category with the days described for Category 5 above except that the substantive review time-frame is increased from 219 business days to 281 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

(8) Complex Class I NSR major source permit with a public hearing. This is a Model F license. Table 1 shows this license category with the days described for Category 6 above except that the substantive review time-frame is increased from 251 business days to 313 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

Group III: Individual Class I other major source licenses. These licenses are authorized and identified at A.R.S. § 49-426 and A.A.C. R18-2-302. These licenses are subject to sanctions because they require application review fees that are deposited into a Department fund and the applications require substantive review. Application components are identified in rule at R18-2-304 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326. The structure, time-frames, operation, and rationale for these license categories (Categories 9-12) are the same as described for Group I above.

(9) Standard Class I other major source permit with no public hearing. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Table 1 shows this license category with the days described for Category 10 ("Standard") except that the substantive review time-frame is shortened from 376 business days to 344 business days. This represents a reasonable time reduction of

Arizona Administrative Register
Notices of Final Rulemaking

32 business days (approximately 45 calendar days) should the application not require a public hearing prior to the Department making a decision to grant the license.

(10) Standard Class I other major source permit with a public hearing. This is a Model F license because substantive review of application components and a public hearing are required. Table 1 shows this license category with added days for a public hearing should 1 be required: 41 business days (approximately 2 months) for the administrative completeness review time-frame and 376 business days (approximately 18 months) for the substantive review time-frame.

(11) Complex Class I other major source permit with no public hearing. This is a Model E license. Table 1 shows this license category with the days described for Category 9 above except that the substantive review time-frame is increased from 344 business days to 406 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

(12) Complex Class I other major source permit with a public hearing. This is a Model F license. Table 1 shows this license category with the days described for Category 10 above except that the substantive review time-frame is increased from 376 business days to 438 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

Group IV: Individual Class I renewal licenses. These licenses are authorized and identified at A.R.S. § 49-426 and A.A.C. R18-2-302 and R18-2-322. These licenses are not subject to refunds because they do not require application review fees. Application components are identified in rule at R18-2-304 and require a Department-generated application form and site inspection. The Department has limited experience with these license categories and is currently in the 1st year of a 3-year phase-in period. Under state law, the Department is expected to make licensing decisions on about 1/3 of the total number of governed sources each year for 3 years. About 35 sources are required to apply and, of these, 16 applications are now in the public notice phase. None of these 35 applications will be subject to this rule because they will be in process before the expected effective date of the rule. Only applications 1st received after the effective date of the rule will be subject to the rule. The structure, time-frames, operation, and rationale for these license categories (Categories 13-16) are the same as described for Group I above.

(13) Standard Class I renewal permit with no public hearing. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Table 1 shows this license category with the days described for Category 14 (“Standard”) except that the substantive review time-frame is shortened from 376 business days to 344 business days. This represents a reasonable time reduction of 32 business days (approximately 45 calendar days) should the application not require a public hearing prior to the Department making a decision to grant the license.

(14) Standard Class I renewal permit with a public hearing. This is a Model F license because substantive review of non-uniform application components and a public hearing are required. Table 1 shows this license category with the basic review times described in rule: 41 business days (approximately 2 months) for the administrative completeness review time-frame and 376 (approximately 18 months) for the substantive review time-frame.

(15) Complex Class I renewal permit with no public hearing. This is a Model E license. Table 1 shows this license category with the days described for Category 13 above except that the substantive review time-frame is increased from 344 business days to 406 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

(16) Complex Class I renewal permit with a public hearing. This is a Model F license. Table 1 shows this license category with the days described for Category 14 above except that the substantive review time-frame is increased from 376 business days to 438 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

Group V: Individual Class I transfer, amendment, and revision licenses.

(17) Class I transfer. This license is authorized and identified at A.R.S. §§ 49-429 and A.A.C. R18-2-302 and R18-2-323. This license is subject to sanctions because it requires an application review fee that is deposited into a Depart-

Arizona Administrative Register
Notices of Final Rulemaking

ment fund and requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-323 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326. The Department has limited experience with this license and has received only 2 applications for transfer licenses since 1994. Table 1 shows this licenses category with 5 business days for the administrative completeness review time-frame and 10 business days for the substantive review time-frame.

(18) Class I administrative amendment. This license is authorized and identified at A.R.S. § 49-426 and A.A.C. R18-2-302 and R18-2-318. This license is not subject to sanctions because it does not require an application review fee. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-318 and require site inspection. The Department has received approximately 8 applications for this license since 1994. Table 1 shows this licenses category with 10 business days (approximately 2 weeks) for the administrative completeness review time-frame and 41 business days (approximately 60 calendar days) for the substantive review time-frame.

(19) Class I minor revision. This license is authorized and identified at A.R.S. § 49-426.01 and A.A.C. R18-2-302 and R18-2-319. This license is subject to sanctions because it requires an application review fee that is deposited into a Department fund and requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-319 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326. The Department has received approximately 33 applications for this license since 1994. Table 1 shows this licenses category with 41 business days (approximately 60 calendar days) for the administrative completeness review time-frame and 103 business days (approximately 150 calendar days) for the substantive review time-frame.

Class I significant revision licenses. These licenses are authorized and identified at A.R.S. § 49-426.01 and A.A.C. R18-2-302 and R18-2-320. These licenses are subject to sanctions because they require application review fees that are deposited into a Department fund and require substantive review. Application components are identified in rule at R18-2-304 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326. The Department has issued 6 licenses in these license categories since 1994 and currently has 12 applications pending. None of these 12 applications will be subject to this rule because they are in process before the expected effective date of the rule. Only applications 1st received after the effective date of the rule will be subject to the rule. The structure, time-frames, operation, and rationale for these license categories (Categories 20-23) are the same as described for Group I above.

(20) Standard Class I significant revision with no public hearing. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Table 1 shows this license category with the days described for Category 21 (“Standard”) except that the substantive review time-frame is shortened from 376 business days to 344 business days. This represents a reasonable time reduction of 32 business days (approximately 45 calendar days) should the application not require a public hearing prior to the Department making a decision to grant the license.

(21) Standard Class I significant revision with a public hearing. This is a Model F license because substantive review of non-uniform application components and a public hearing are required. Table 1 shows this license category with the basic review times described in rule: 41 business days (approximately 2 months) for the administrative completeness review time-frame and 376 (approximately 18 months) for the substantive review time-frame.

(22) Complex Class I significant revision with no public hearing. This is a Model E license. Table 1 shows this license category with the days described for Category 20 above except that the substantive review time-frame is increased from 344 business days to 406 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

(23) Complex Class I significant revision with a public hearing. This is a Model F license. Table 1 shows this license category with the days described for Category 21 above except that the substantive review time-frame is increased from 376 business days to 438 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

Group VI: Authority to operate (ATO) under Class I general permit licenses.

Arizona Administrative Register
Notices of Final Rulemaking

(24) Class I general permit coverage petition. This license is authorized and identified at A.R.S. § 49-426(H) and A.A.C. R18-2-302 and R18-2-502. This license is not subject to sanctions because it does not require an application fee. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-502(B). The Department has limited experience with this license category. Only 1 application has so far been received. That application was denied. Table 1 shows this license category with 21 business days (approximately 1 month) for the administrative completeness review time-frame and 61 business days (approximately 2 months) for the substantive review time-frame.

(25) Class I general coverage ATO new permit. This license is authorized and identified at A.R.S. § 49-426(H) and A.A.C. R18-2-302 and R18-2-503. This license is subject to sanctions because it requires an application review fee that is deposited into a Department fund and requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-503 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-511. The Department has never received an application for this license. Table 1 shows this license category with 21 business days (approximately 1 month) for the administrative completeness review time-frame and 103 business days (approximately 5 months) for the substantive review time-frame.

(26) Class I general coverage ATO renewal permit. This license is authorized and identified at A.R.S. § 49-426(H) and A.A.C. R18-2-302 and R18-2-505. This license is subject to sanctions because it requires an application review fee that is deposited into a Department fund and requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-505 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-511. The Department has never received an application for this license. Table 1 shows this license category with 21 business days (approximately 1 month) for the administrative completeness review time-frame and 103 business days (approximately 5 months) for the substantive review time-frame.

b. Class I-type air licenses not subject to Article 7.1 licensing time-frame requirements.

(1) County air licenses. Licenses similar in nature to the Class I air licenses described above are issued by Maricopa, Pima, and Pinal counties under the state's county air pollution control program in accordance with A.R.S. §§ 49-471 through 49-516. These licenses are issued under authority independent from that of the Department and are not addressed in this rule making.

(2) Acid rain permit. An "acid rain permit" (CAA Title IV) in accordance with R18-2-333 (incorporating 40 C.F.R. § 72) is a set of additional conditions imposed on a licensee in a Class I PSD or NSR major source permit and is not a separate license and is not identified as such on the list below. The necessary acid rain (SO₂ and NO_x) conditions are incorporated into the base permit either when it 1st issues or through a reopening.

(3) Facility change licenses. Several licenses associated with Class I sources are created by notifying the Director of some proposed activity and, therefore, not subject to Article 7.1. These include proposed changes to permitted activities or facilities in accordance with R18-2-317(D). These represent Model B (notice) licenses.

(4) Class I reopening. This license is authorized and identified at A.R.S. § 49-402 and A.A.C. R18-2-321. Constructive applications prepared by the Department that may lead to this license are not subject to Article 7.1 because they are initiated by the Department.

2) Table 2: Class II Air Licenses

a. Licenses subject to Article 7.1 licensing time-frame requirements.

The Department issues the following licenses as part of the state's air pollution control program for minor sources in accordance with A.R.S. §§ 49-421 through 467 and administered by the Department's Air Permits Section of the Air Quality Division. The program governs sources not otherwise required to comply with the Clean Air Act (CAA). The Department issues the following Class II licenses in all counties except Maricopa, Pima, and Pinal. The following numbered license categories appear on Table 2 with the same corresponding numbers shown here in parentheses. The arrangement of licenses categories on this Table is as follows.

Individual Class II air permits.

Group I: Individual Class II new licenses.

Standard Class II permit with no public hearing (1).

Standard Class II permit with a public hearing (2).

Arizona Administrative Register
Notices of Final Rulemaking

Complex Class II permit with no public hearing (3).
Complex Class II permit with a public hearing (4).

Group II: Individual Class II renewal licenses.
Standard/complex and with/without a hearing as in Group I (5-8).

Group III: Individual Class II transfer, amendment, and revision licenses.
Class II transfer (9).
Class II administrative amendment (10).
Class II minor revision (11).
Class II significant revision: standard/complex and with/without a hearing as in Group I (12-15).

General Class II air permits.

Group IV: Authority to operate (ATO) under Class II general permit licenses.

Class II general permit coverage petition (16).
Class II general coverage ATO new permit (17).
Class II general coverage ATO renewal permit (18).
Class II general coverage ATO variance (19).

Group I: Individual Class II new licenses. These licenses are authorized and identified at A.R.S. § 49-426 and A.A.C. R18-2-302. These licenses are subject to sanctions because they require application review fees that are deposited into a Department fund and the applications require substantive review. Application components are identified in rule at R18-2-304 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326.

The Department has issued approximately 158 licenses in these Group I categories since 1994 and has approximately 41 pending applications. Department experience has been that perhaps 1 or 2 of these applications per year might qualify as falling within 1 of the “complex” categories described below. None of these 41 applications will be subject to this rule because they will be in process before the expected effective date of the rule. Only applications 1st received after the effective date of the rule will be subject to the rule.

The Department expects that all applications for licenses in this category group would be received 1st in Category 1 (“standard”). Should a public hearing be requested, the Department will reassign the application to Categories 2 or 4 (“with a hearing”) in accordance with R18-1-516(A). The Department may reassign an application to Categories 3 or 4 (“complex”) in accordance with R18-1-516(B) if the Department determines that the application requires a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. “Complex” as used in this rule is defined at R18-1-501(9).

(1) Standard Class II permit with no public hearing. This is a Model E (no hearing) license. (See discussion of license processing models at § 6(C)(3) above). Table 2 shows this license category with the days described for Category 2 below except that the substantive review time-frame is shortened from 272 business days to 240 business days. This represents a reasonable time reduction of 32 business days (approximately 45 calendar days) should the application not require a public hearing prior to the Department making a decision to grant the license.

(2) Standard Class II permit with a public hearing. This is a Model F (with a hearing) license. (See discussion of license processing models at § 6(C)(3) above). Table 2 shows this license category with 41 business days (approximately 60 calendar days) for the administrative completeness review and 272 business days (approximately 13 months) for the substantive review time-frames. This is reasonably equivalent to the calendar days and months identified in the rule.

(3) Complex Class II permit with no public hearing. This is a Model E license. Table 2 shows this license category with the days described for Category 1 above except that the substantive review time-frame is increased from 240 business days to 302 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

(4) Complex Class II permit with a public hearing. This is a Model F license. Table 2 shows this license category with the days described for Category 2 above except that the substantive review time-frame is increased from 272 business days to 334 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

Arizona Administrative Register
Notices of Final Rulemaking

Group II: Individual Class II renewal licenses. These licenses are authorized and identified at A.R.S. § 49-426 and A.A.C. R18-2-302 and R18-2-322. These licenses are not subject to sanctions because they do not require application review fees. Application components are identified in rule at R18-2-304 and require a Department-generated application form and site inspection. The Department has issued approximately 16 Class II renewal licenses since 1994 and has approximately 12 applications pending. Department experience has been that perhaps 1 or 2 of these applications per year might qualify as falling within 1 of the “complex” categories described above. None of these 12 applications will be subject to this rule because they will be in process before the expected effective date of the rule. Only applications 1st received after the effective date of the rule will be subject to the rule. The structure, time-frames, operation, and rationale for these license categories (Categories 5-8) are the same as described for Group I above.

(5) Standard Class II renewal with no public hearing. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Table 2 shows this license category with the days described for Category 6 (“Standard”) except that the substantive review time-frame is shortened from 272 business days to 240 business days. This represents a reasonable time reduction of 32 business days (approximately 45 calendar days) should the application not require a public hearing prior to the Department making a decision to grant the license.

(6) Standard Class II renewal with a public hearing. This is a Model F license because substantive review of non-uniform application components and a public hearing are required. Table 2 shows this license category with the basic review times described in rule: 41 business days (approximately 2 months) for the administrative completeness review time-frame and 272 business days (approximately 13 months) for the substantive review time-frame.

(7) Complex Class II renewal with no public hearing. This is a Model E license. Table 2 shows this license category with the days described for Category 5 above except that the substantive review time-frame is increased from 240 business days to 302 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

(8) Complex Class II renewal with a public hearing. This is a Model F license. Table 2 shows this license category with the days described for Category 6 above except that the substantive review time-frame is increased from 272 business days to 334 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

Group III: Individual Class II transfer, amendment, and revision licenses. The Department has issued 13 revision licenses since 1994 and currently has 8 applications pending. Department experience has been that perhaps 1 or 2 of these applications per year might qualify as falling within 1 of the “complex” categories described above. None of these 8 applications will be subject to this rule because they are in process before the expected effective date of the rule. Only applications 1st received after the effective date of the rule will be subject to the rule.

(9) Class II transfer. This license is authorized and identified at A.R.S. § 49-429 and A.A.C. R18-2-302 and R18-2-323. This license is subject to sanctions because it requires an application review fee that is deposited into a Department fund and requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-323 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326. The Department has issued approximately 16 Class II transfer licenses since 1994. Table 2 shows this licenses category with 5 business days for the administrative completeness review time-frame and 10 business days for the substantive review time-frame.

(10) Class II administrative amendment. This license is authorized and identified at A.R.S. § 49-426 and A.A.C. R18-2-302 and R18-2-318. This license is not subject to refund because it does not require an application review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-318 and require site inspection. The Department has issued approximately 8 Class II administrative amendments since 1994. Table 2 shows this licenses category with 10 business days (approximately 2 weeks) for the administrative completeness review time-frame and 41 business days (approximately 60 calendar days) for the substantive review time-frame.

(11) Class II minor revision. This license is authorized and identified at A.R.S. § 49-426.01 and A.A.C. R18-2-302 and R18-2-319. This license is subject to sanctions because it requires an application review fee that is deposited into a Department fund and requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified

Arizona Administrative Register
Notices of Final Rulemaking

in rule at R18-2-319 (revision anticipated) and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326. The Department has issued approximately 22 class II minor revisions since 1994. Table 2 shows this licenses category with 41 business days (approximately 60 calendar days) for the administrative completeness review time-frame and 62 business days (approximately 90 calendar days) for the substantive review time-frame.

(12) Standard Class II significant revision with no public hearing. This license is authorized and identified at A.R.S. § 49-426.01 and A.A.C. R18-2-302 and R18-2-320. This license is subject to sanctions because it requires an application review fee that is deposited into a Department fund and requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-304 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326. Table 2 shows this license category with the days described for Category 13 (“Standard”) except that the substantive review time-frame is shortened from 230 business days to 198 business days. This represents a reasonable time reduction of 32 business days (approximately 45 calendar days) should the application not require a public hearing prior to the Department making a decision to grant the license.

(13) Standard Class II significant revision with a public hearing. This license is authorized and identified at A.R.S. § 49-426.01 and A.A.C. R18-2-302 and R18-2-320. This license is subject to sanctions because it requires an application review fee that is deposited into a Department fund and requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing are required. Application components are identified in rule at R18-2-304 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326. Table 2 shows this license category with the basic review times described in rule: 41 business days (approximately 2 months) for the administrative completeness review time-frame and 230 business days (approximately 11 months) for the substantive review time-frame.

(14) Complex Class II significant revision with no public hearing. This license is authorized and identified at A.R.S. § 49-426.01 and A.A.C. R18-2-302 and R18-2-320. This license is subject to sanctions because it requires an application review fee that is deposited into a Department fund and requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-304 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326. Table 2 shows this license category with the days described for Category 12 above except that the substantive review time-frame is increased from 198 business days to 260 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

(15) Complex Class II significant revision with a public hearing. This license is authorized and identified at A.R.S. § 49-426.01 and A.A.C. R18-2-302 and R18-2-320. This license is subject to sanctions because it requires an application review fee that is deposited into a Department fund and requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing are required. Application components are identified in rule at R18-2-304 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-326. Table 2 shows this license category with the days described for Category 13 above except that the substantive review time-frame is increased from 230 business days to 292 business days. This represents a reasonable increase of 62 business days (approximately 2 months) for applications that require a significant increase in Department resources in excess of standard application proposals received in this license category group due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

Group IV: Authority to operate (ATO) under Class II general permit licenses.

(16) Class II general permit coverage petition. This license is authorized and identified at A.R.S. § 49-426(H) and A.A.C. R18-2-302 and R18-2-502(B). This license is not subject to sanctions because it does not require an application fee. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-502(B). The Department has established several Class II general permit categories on its own initiative and perhaps has not received an application for this license. Table 2 shows this license category with 21 business days (approximately 1 month) for the administrative completeness review time-frame and 61 business days (approximately 2 months) for the substantive review time-frame.

Arizona Administrative Register
Notices of Final Rulemaking

(17) Class II general coverage ATO new permit. This license is authorized and identified at A.R.S. § 49-426(H) and A.A.C. R18-2-302 and R18-2-503. This license is subject to sanctions because it requires an application review fee that is deposited into a Department fund and requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-503 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-511. The Department has issued approximately 81 licenses in this category since 1994 and has 7 applications pending. Table 2 shows this license category with 21 business days (approximately 1 month) for the administrative completeness review time-frame and 103 business days (approximately 5 months) for the substantive review time-frame.

(18) Class II general coverage ATO renewal permit. This license is authorized and identified at A.R.S. § 49-426(H) and A.A.C. R18-2-302 and R18-2-505. This license is subject to sanctions because it requires an application review fee that is deposited into a Department fund and requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-505 and require a Department-generated application form, site inspection and an initial fee. Application review fees are identified in rule at R18-2-511. Table 2 shows this license category with 21 business days (approximately 1 month) for the administrative completeness review time-frame and 103 business days (approximately 5 months) for the substantive review time-frame.

(19) Class II general coverage ATO variance. This license is authorized and identified at A.R.S. § 49-426(H) and A.A.C. R18-2-507. This license is subject to sanctions because it requires an application review fee that is deposited into a Department fund and requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-507 and require a Department-generated application form, site inspection and an initial fee. The Department has never received an application for this license. Table 2 shows this license category with 21 business days (approximately 1 month) for the administrative completeness review time-frame and 103 business days (approximately 5 months) for the substantive review time-frame.

b. Class II-type air licenses not subject to Article 7.1 licensing time-frame requirements.

(1) County air licenses. Licenses similar in nature to the Class II air licenses described above are issued by Maricopa, Pima, and Pinal counties under the state's county air pollution control program in accordance with A.R.S. §§ 49-471 through 49-516. These licenses are issued under authority independent from that of the Department and are not addressed in this rule making.

(2) Facility change licenses. Several licenses associated with Class II sources are created by notifying the Director of some proposed activity and, therefore, not subject to Article 7.1. These include proposed changes to permitted activities or facilities in accordance with R18-2-317(D). These represent Model B (notice) licenses.

(3) Class II reopening. This license is authorized and identified at A.R.S. § 49-402 and A.A.C. R18-2-321. Constructive applications prepared by the Department that may lead to this license are not subject to Article 7.1 because they are initiated by the Department.

3) Tables 3, 3-N, 3-S: Open Burning Licenses

The Department issues the following open burning licenses as part of the state's implementation of the state's open burning and forest and range burn management programs. Table 3 covers licenses issued by the Phoenix office, Table 3-N by the Northern Regional Office and Table 3-S by the Southern Regional Office.

a. Licenses subject to Article 7.1 licensing time-frame requirements.

The Department issues the following open burning licenses as part of the state's implementation of the state's open burning program. The following numbered license category appears on Table 3, 3-N and 3-S with the same corresponding number in parentheses. These licenses are authorized and identified at A.R.S. § 49-501 and A.A.C. R18-2-602. These licenses are not subject to refund because they require no application review fee.

(1) Dangerous material open burning permit. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components for this license are identified at R18-2-602(E)(1) and require a Department-generated application form. Tables 3, 3-N and 3-S show this license category with 5 business days (approximately 1 week) for the administrative completeness review time-frame and 21 business days (approximately 1 month) for the substantive review time-frame. The Department has issued approximately 10 licenses in this category between January and September 1997.

b. Licenses not subject to Article 7.1 licensing time-frame requirements.

Arizona Administrative Register
Notices of Final Rulemaking

The Department has determined that the following licenses are not subject to Article 7.1 time-frame requirements because they are issued within 7 days after receipt of the initial application in accordance with A.R.S. § 41-1073(D).

Open burning licenses. These licenses are authorized and identified at A.R.S. § 49-501 and A.A.C. R18-2-602.

(1) Weed abatement, fire hazard prevention, or fire fighting instruction open burning permit. Application components for this license are identified at R18-2-602(C)(2). The Department has issued approximately 700 licenses in this category between January and September 1997 and denied another approximately 20 applications. Current Department practice is that once an applicant has successfully obtained an initial license, subsequent applications for additional licenses and Department grants of those licenses are made by telephone.

(2) Ordinary household trash open burning permit. Application components for this license are identified at R18-2-602(E)(2). The Department has received no applications for licenses in this category between January and September 1997.

Forest and range management burn licenses. These licenses are authorized and identified at A.R.S. § 49-501 and A.A.C. R18-2-1506.

(3) Daily burn request approval. Application components for this license are identified at R18-2-1505(G) and R18-2-1506. The Department has issued between approximately 1500 and 2000 licenses in this category each year from 1994 to 1996. Department experience has been to deny approximately 8-10% of requests.

(4) Prescribed natural fire plan approval. Application components for this license are identified at R18-2-1505(G) and R18-2-1508. The Department has issued only 6 licenses in this category so far in 1997. The Department expects applications to increase significantly in this category during 1998.

4) Table 4: Vehicle Emission Licenses

The Department issues the following licenses as part of the state's implementation of the motor vehicle emissions inspection program in accordance with A.R.S. §§ 49-541 through 49-554 and administered by the Department's Vehicle Emissions Section of the Air Quality Division.

a. Licenses subject to Article 7.1 licensing time-frame requirements.

The following numbered license categories appear on Table 4 with the same corresponding number in parentheses.

(1) Fleet station permit. This license is authorized and identified at A.R.S. § 49-546 and A.A.C. R18-2-1019 and R18-2-1026. This license is not subject to sanctions because it does not require an application review fee. This is a Model D license because substantive review of uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-1019 and require a Department-generated application form. Table 4 shows 15 business days (approximately 3 weeks) for the administrative completeness review time-frame and 21 business days (approximately 1 month) for the substantive review time-frame. In 1996, the Department received approximately 350 applications for this license and issued approximately 350 licenses.

(2) Analyzer facility registration. This license is authorized and identified at A.R.S. §§ 49-542 (J)(4) and 49-546(A)(2) and A.A.C. R18-2-1027. This license is not subject to sanctions because it does not require an application review fee. This is a Model D license because substantive review of uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-2-1027. Table 4 shows 10 business days (approximately 2 weeks) for the administrative completeness review time-frame and 10 business days (approximately 2 weeks) for the substantive review time-frame. In 1996, the Department received approximately 90 applications for this license and issued approximately 90 licenses.

b. Licenses not subject to Article 7.1 licensing time-frame requirements.

The Department has determined that the following licenses are not subject to Article 7.1 time-frame requirements because they are issued within 7 days after receipt of the initial application in accordance with A.R.S. § 41-1073(D).

(1) Vehicle inspection compliance certification. This license is authorized and identified at A.R.S. § 49-542 and A.A.C. R18-2-1006. Licensing decisions for this license are made immediately at the time of the application and on the same day. In 1996, the Department received approximately 1,400,000 applications for this license and issued approximately 980,000 licenses.

(2) Waiver certification. This license is authorized and identified at A.R.S. § 49-542 and A.A.C. R18-2-1008. In 1996, the Department received approximately 45,000 applications for this license and issued approximately 33,000 licenses.

Arizona Administrative Register
Notices of Final Rulemaking

(3) Alternative fuel certification. This license is authorized and identified at A.R.S. §§ 28-5808 and 49-542(F). In 1996, the Department received approximately 1200 applications for this license and issued approximately 1200 licenses.

(4) Exemption certification. This license is authorized and identified at A.R.S. § 49-542(J)(2) and A.A.C. R18-2-1023. In 1996, the Department received approximately 4200 applications for this license and issued approximately 4000 licenses.

(5) Director's certification. This license is authorized and identified at A.R.S. § 49-542(N) and A.A.C. R18-2-1006, R18-2-1022, and R18-2-1023. In 1996, the Department received approximately 400 applications for this license and issued approximately 400 licenses.

(6) Fleet operator compliance inspection certificate. This license is authorized and identified at A.R.S. § 49-542 and R18-2-1018. In 1996, the Department received approximately 1100 applications for this license and issued approximately 200,000 certificates. Individual applications may result in 100 or more certificates (licenses.)

(7) Fleet agent approval. This license is authorized and identified at A.R.S. § 49-546 and A.A.C. R18-2-1019(B)(1)(g). In 1996, the Department received approximately 350 applications for this license and issued approximately 350 licenses.

(8) Fleet inspector license. This license is authorized and identified at A.R.S. § 49-546(A)(3) and A.A.C. R18-2-1016. In 1996, the Department received approximately 1500 applications for this license and issued approximately 1300 licenses.

(9) Contractor inspector license. This license is authorized and identified at A.R.S. § 49-545 and A.A.C. R18-2-1025. In 1996, the Department received approximately 750 applications for this license and issued approximately 750 licenses.

(10) Analyzer repair technician certificate. This license is authorized and identified at A.R.S. §§ 49-542 (J)(4) and 49-546(A)(2) and A.A.C. R18-2-1028. In 1996, the Department received approximately 20 applications for this license and issued approximately 20 licenses.

(11) Emissions technician certificate. This license is authorized and identified at A.R.S. § 49-546(A)(3) and R18-2-1028. In 1996, the Department received approximately 150 applications for this license and issued approximately 150 licenses.

5) Tables 5, 5-N, 5-S: Safe Drinking Water Construction Licenses

The Department issues the following licenses subject to licensing time-frame requirements as part of the Department's implementation of the state's safe drinking water program in accordance with A.R.S. §§ 49-351 through 49-356 and administered by the Department's Water Protection Approvals and Permits Section of the Water Quality Division. The following license categories appear on Tables 5, 5-N and 5-S with the same corresponding numbers shown here in parentheses. Table 5 governs license applications processed by the Phoenix office, Table 5-N by the Northern Regional Office, and Table 5-S by the Southern Regional Office. The arrangement of licenses categories on the tables is as follows.

Group I: Drinking water approval-to-construct (ATC) licenses.

- Standard drinking water treatment facility, project, or well ATC (1).
- Complex drinking water treatment facility, project, or well ATC (2).
- Standard public and semi-public swimming pool design approval (3).
- Complex public and semi-public swimming pool design approval (4).

Group II: Drinking water approval-of-construction (AOC) licenses.

- Standard/complex water treatment facility, project, or well AOC (5-6).
- Standard/complex public and semi-public swimming pool AOC (7-8).

Group III: Other licenses.

- Standard/complex water new source approval (9-10).
- Drinking water time extension approval (11).

The construction approval licenses of the safe drinking water program are often closely related to corresponding construction licenses administered by the Department's wastewater collection and treatment program. The Department receives from 600 to 1100 applications each year for the construction of drinking water and wastewater facilities. Currently, the Department is receiving applications at the approximate rate of 700 to 750 per year with 400 to 450 of these applications containing requests for drinking water construction licenses of some kind.

Arizona Administrative Register
Notices of Final Rulemaking

Each application usually contains requests for 1 to 5 separate licenses identified on Tables 5, 6, and 7 of this rule. Approximately 25% of applications request only a single construction license such as a drinking water, well, or wastewater approval. Approximately 50% of applications concern both water and wastewater construction and may contain requests for several licenses. The other approximately 25% of applications concern subdivision sanitary approvals with requests for at least 3 licenses (subdivision, drinking water, and wastewater). Department experience is that total drinking water and wastewater construction licenses issued in recent years can vary between approximately 1500 and 3500 annually and that failure to reach a timely licensing decision almost always is due to failure by the applicant to respond to a notice of administrative deficiencies or a request for additional information.

Delegation agreements with counties to assume the issuance of a certain portion of these licenses has reduced the overall numbers issued by the Department in recent years. However, the average technical complexity of applications reviewed by the Department has increased even as overall numbers have decreased. This is due in part because county review focuses more on simpler application proposals. This leaves the Department with a higher proportion of more complex applications. In addition, the treatment technology expressed in application proposals continues to increase in complexity including alternative and other novel technologies. On the other hand, Department experience is that actual review time is often unrelated to the size of the proposed facility. This is because documentation submitted to support applications for larger facilities are usually much better engineered and presented than that submitted for smaller facilities.

Except for Group V, licenses on this table are not subject to sanctions because they do not require application review fees. No review application review times for these licenses currently appear in statute or rule. The following times are based on current Department experience, the assumption that the provisions of this rule will apply, and that approximately 5 to 10% of applications will be processed in the various "complex" categories.

Group I: Drinking water approval-to-construct (ATC) licenses. During the last fiscal year (1996-97), the Department received 614 applications for water and wastewater construction projects. In response, the 2 programs issued decisions on 836 license requests. Of these, 258 decisions concerned drinking water treatment facility, project, and well ATC requests. During the 1st 6 months of 1997, Department experience for issuance of a final approval or a letter of substantive deficiencies for all applications for drinking water facility ATC licenses shows that 50% were issued within 19 calendar days after receipt and 90% within 58 calendar days. The Department expects to adjust its review procedure in accordance with the time-frames statute to conduct an administrative completeness review prior to commencement of substantive review. The following times are based on this assumed change. Even so, current Department experience is that final approvals for 50% of these licence applications were issued within 28 calendar days and 90% within 131 calendar days.

The Department also expects to make other changes in its current application review process for ATC licenses. For example, the Department currently accepts ATC applications even when the applicant has not yet obtained an aquifer protection permit (APP) if required. Under this rule, the Department either may refrain from accepting such premature applications or it may accept them but identify the APP as a missing application component in a notice of administrative deficiencies with the effect of suspending the clock until such time as the APP is obtained.

(1) Standard drinking water treatment facility, project, or well ATC. This license is authorized and identified at A.R.S. § 49-353 and A.A.C. R18-4-505. This license is not subject to sanctions because the Department does not collect a fee for its issuance. This is a Model E license because it requires substantive review of non-uniform application components and does not require a public hearing. Application components are identified in rule at R18-4-505 and require a Department-generated application form and site inspection. Tables 5, 5-N and 5-S show this license with 11 business days (approximately 15 calendar days) for the administrative completeness review time-frame and 32 business days (approximately 45 calendar days) for the substantive review time-frame.

(2) Complex drinking water treatment facility, project, or well ATC. Tables 5, 5-N and 5-S show this category based on license category 1 above with the substantive review time-frame increased from 32 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

(3) Standard public and semi-public swimming pool design approval. This license is authorized and identified at A.R.S. § 49-104(B)(12). This license is not subject to sanctions because the Department does not collect a fee for its issuance. This is a Model E license because it requires substantive review of non-uniform application components and does not require a public hearing. Application components are identified in rule at R18-5-203 and require a Department-generated application form and site inspection. Tables 5, 5-N and 5-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 21 business days for the substantive review time-frame.

Arizona Administrative Register
Notices of Final Rulemaking

(4) Complex public and semi-public swimming pool design approval. Tables 5, 5-N and 5-S show this category based on license category 3 above with the substantive review time-frame increased from 21 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

Group II: Drinking water approval-of-construction (AOC) licenses.

(5) Standard drinking water treatment facility, project, or well AOC. This license is authorized and identified at A.R.S. § 49-353 and A.A.C. R18-4-507. This license is not subject to sanctions because it does not incur an application review fee. This is Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-4-507 and require a Department-generated application form and site inspection. Tables 5, 5-N and 5-S show this license with 11 business days (approximately 15 calendar days) for the administrative completeness review time-frame and 32 business days (approximately 45 calendar days) for the substantive review time-frame.

(6) Complex drinking water treatment facility, project, and well AOC. Tables 5, 5-N and 5-S show this category based on license category 5 above with the substantive review increased from 32 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

(7) Standard public and semi-public swimming pool AOC. This license is authorized and identified at A.R.S. § 49-104(B)(12). This license is not subject to sanctions because it does not incur an application review fee. This is Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-5-204 and require a Department-generated application form and site inspection. Tables 5, 5-N and 5-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 21 business days (approximately 30 calendar days) for the substantive time-frame.

(8) Complex public and semi-public swimming pool AOC. Tables 5, 5-N and 5-S show this category based on license category 7 above with the substantive review increased from 21 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

Group III: Other drinking water construction licenses.

(9) Standard drinking water new source approval. This license is authorized and identified at A.R.S. § 49-353 and A.A.C. R18-4-505. This license is not subject to sanctions because the Department does not collect a fee for its issuance. This is Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-4-505 and require a Department-generated application form and site inspection. Tables 5, 5-N and 5-S show this license with 11 business days (approximately 15 calendar days) for the administrative completeness review time-frame and 32 business days (approximately 45 calendar days) for the substantive review time-frame.

(10) Complex drinking water new source approval. Tables 5, 5-N and 5-S show this category based on license category 16 above with the substantive review increased from 32 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

(11) Drinking water time extension approval. This license is authorized and identified at A.R.S. § 49-353 and A.A.C. R18-4-505. This license is not subject to sanctions because the Department does not collect a fee for its issuance. This is Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-4-505 and require a Department-generated application form. Tables 5, 5-N and 5-S show this license with 11 business days (approximately 15 calendar days) for the administrative completeness review time-frame and 11 business days for the substantive review time-frame.

6) Tables 6, 6-E, 6-N, 6-S: Wastewater Construction Licenses

The Department issues the following licenses which are subject to licensing time-frame requirements as part of the Department's implementation of the state's wastewater collection and treatment program in accordance with A.R.S.

Arizona Administrative Register
Notices of Final Rulemaking

§§ 49-361 through 49-391 and administered by the Department's Water Protection Approvals and Permits Section of the Water Quality Division. The following numbered license categories appear on Tables 6, 6-E, 6-N and 6-S with the same corresponding numbers shown here in parentheses. Table 6 governs license applications processed by the Phoenix office, table 6-E by the Water Quality Enforcement Unit, Table 6-N by the Northern Regional Office and Table 6-S by the Southern Regional Office. The arrangement of licenses categories on the tables is as follows.

Group I: Wastewater approval-to-construct (ATC) licenses.

Standard/complex wastewater treatment facility ATC (1-2).

Standard/complex sewerage collection system ATC (3-4).

Standard/complex individual on-site wastewater facility ATC (5-6).

Standard/complex non-individual on-site wastewater facility ATC (7-8).

Standard/complex reclaimed wastewater and sewage disposal facility ATC (9-10).

Group II: Wastewater approval-of-construction (AOC) licenses.

Standard/complex wastewater treatment facility AOC (11-12).

Standard/complex sewerage collection system AOC (13-14).

Standard/complex individual on-site wastewater facility AOC (15-16).

Standard/complex non-individual on-site wastewater facility AOC (17-18).

Standard/complex reclaimed wastewater and sewage disposal facility AOC (19-20).

Group III. Other wastewater licenses.

Wastewater time extension approval (21).

Clean water act (CWA) § 208 consistency review approval (22).

The construction approval licenses of the wastewater collection and treatment program are often closely related to corresponding construction licenses administered by the Department's drinking water treatment and distribution program. See the explanation of the Department's experience with these programs described above at § 6(H)(5).

The following times are based on current Department experience, the assumption that the provisions of this rule will apply, and that approximately 5 to 10% of applications will be processed in the various "complex" categories.

Group I: Wastewater approval-to-construct (ATC) licenses. Wastewater ATC license application review requires, as an administrative completeness component, evidence of prior verification that § 208 requirements are satisfied prior to review.

(1) Standard wastewater treatment facility ATC. This license is authorized and identified at A.R.S. §§ 49-361 and 362 and A.A.C. R18-9-804. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-803, R18-9-804, and R18-9-806 and require a Department-generated application form, site inspection, an initial fee, and proof of prior verification that § 208 requirements are satisfied. The fee is identified in rule at R18-14-101 through R18-14-108. Table 6, Table 6-E, Table 6-N and Table 6-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 32 business days (approximately 45 calendar days) for the substantive review time-frame.

(2) Complex wastewater treatment facility ATC. Table 6, Table 6-E, Table 6-N and Table 6-S show this category based on license category 1 above with the substantive review increased from 32 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

(3) Standard sewerage collection system ATC. This license is authorized and identified at A.R.S. §§ 49-361 and 362 and A.A.C. R18-9-804. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-803, R18-9-804, and R18-9-806 and require a Department-generated application form, site inspection, an initial fee, and proof of prior verification that § 208 requirements are satisfied. The fee is identified in rule at R18-14-101 through R18-14-108. Table 6, Table 6-E, Table 6-N and Table 6-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 32 business days (approximately 45 calendar days) for the substantive review time-frame.

(4) Complex sewerage collection system ATC. Table 6, table 6-E, Table 6-N and Table 6-S show this category based on license category 3 above with the substantive review increased from 32 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application

Arizona Administrative Register
Notices of Final Rulemaking

proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

(5) Standard individual on-site wastewater facility ATC. This license is authorized and identified at A.R.S. §§49-361 and 362 and A.A.C. R18-9-804. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-803, R18-9-804, and R18-9-806 and require a Department-generated application form, site inspection, an initial fee, and proof of prior verification that § 208 requirements are satisfied. The fee is identified in rule at R18-14-101 through R18-14-108. Table 6, Table 6-E, Table 6-N and Table 6-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 21 business days (approximately 30 calendar days) for the substantive review time-frame.

(6) Complex individual on-site wastewater facility ATC. Table 6, Table 6-E, Table 6-N and Table 6-S show this category based on license category 5 above with the substantive review increased from 21 to 41 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 60 calendar days for the entire substantive review time-frame.

(7) Standard non-individual on-site wastewater facility ATC. This license is authorized and identified at A.R.S. §§ 49-361 and 362 and A.A.C. R18-9-804. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-803, R18-9-804, and R18-9-806 and require a Department-generated application form, site inspection, an initial fee, and proof of prior verification that § 208 requirements are satisfied. The fee is identified in rule at R18-14-101 through R18-14-108. Table 6, Table 6-E, Table 6-N and Table 6-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 41 business days (approximately 60 calendar days) for the substantive review time-frame.

(8) Complex non-individual on-site wastewater facility ATC. Table 6, table 6-E, Table 6-N and Table 6-S show this category based on license category 7 above with the substantive review increased from 41 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

(9) Standard reclaimed wastewater and sewage disposal facility ATC. This license is authorized and identified at A.R.S. §§ 49-361 and 362 and A.A.C. R18-9-804. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-703, R18-9-803, R18-9-804, and R18-9-806 and require a Department-generated application form, site inspection, an initial fee, and proof of prior verification that § 208 requirements are satisfied. The fee is identified in rule at R18-14-101 through R18-14-108. Table 6, Table 6-E, Table 6-N and Table 6-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 41 business days (approximately 60 calendar days) for the substantive review time-frame.

(10) Complex reclaimed wastewater and sewage disposal facility ATC. Table 6, Table 6-E, Table 6-N and Table 6-S show this category based on license category 9 above with the substantive review increased from 41 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

Group II: Wastewater approval-of-construction (AOC) licenses.

(11) Standard wastewater treatment facility AOC. This license is authorized and identified at A.R.S. §§ 49-361 and 362 and A.A.C. R18-9-804. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-803, R18-9-805, and R18-9-806 and require a Department-generated application form, site inspection and an initial fee. The fee is identified in rule at R18-14-101 through R18-14-108. Table 6, Table 6-E, Table 6-N and Table 6-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 32 business days (approximately 45 calendar days) for the substantive review time-frame.

(12) Complex wastewater treatment facility AOC. Table 6, table 6-E, Table 6-N and Table 6-S show this category based on license category 21 above with the substantive review increased from 32 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

(13) Standard sewerage collection system AOC. This license is authorized and identified at A.R.S. §§ 49-361 and 362 and A.A.C. R18-9-804. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-803, R18-9-805, and R18-9-806 and require a Department-generated application form, site inspection and an initial fee. The fee is identified in rule at R18-14-101 through R18-14-108. Table 6, Table 6-E, Table 6-N and Table 6-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 32 business days (approximately 45 calendar days) for the substantive review time-frame.

(14) Complex sewerage collection system AOC. Table 6, Table 6-E, Table 6-N and Table 6-S show this category based on license category 2 above with the substantive review increased from 32 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

(15) Standard individual on-site wastewater facility AOC. This license is authorized and identified at A.R.S. §§ 49-361 and 362 and A.A.C. R18-9-804. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-803, R18-9-805, and R18-9-806 and require a Department-generated application form, site inspection and an initial fee. The fee is identified in rule at R18-14-101 through R18-14-108. Table 6, Table 6-E, Table 6-N and Table 6-S show this license with 21 business days (approximately 20 calendar days) for the administrative completeness review time-frame and 21 business days (approximately 30 calendar days) for the substantive review time-frame.

(16) Complex individual on-site wastewater facility AOC. Table 6, Table 6-E, Table 6-N and Table 6-S show this category based on license category 25 above with the substantive review increased from 21 to 41 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 60 calendar days for the entire substantive review time-frame.

(17) Standard non-individual on-site wastewater facility AOC. This license is authorized and identified at A.R.S. §§ 49-361 and 362 and A.A.C. R18-9-804. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-803, R18-9-805, and R18-9-806 and require a Department-generated application form, site inspection and an initial fee. The fee is identified in rule at R18-14-101 through R18-14-108. Table 6, Table 6-E, Table 6-N and Table 6-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 41 business days (approximately 60 calendar days) for the substantive review time-frame.

(18) Complex non-individual on-site wastewater facility AOC. Table 6, Table 6-E, Table 6-N and Table 6-S show this category based on license category 27 above with the substantive review increased from 41 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

(19) Standard reclaimed wastewater and sewage disposal facility AOC. This license is authorized and identified at A.R.S. §§ 49-361 and 362 and A.A.C. R18-9-805. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-803, R18-9-805, and R18-9-806 and require a Department-generated application form, site inspection and an initial fee. The fee is identified in rule at R18-14-101 through R18-14-108. Table 6, Table 6-E, Table 6-N and Table 6-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 41 business days (approximately 60 calendar days) for the substantive review time-frame.

Arizona Administrative Register
Notices of Final Rulemaking

(20) Complex reclaimed wastewater and sewage disposal facility AOC. Table 6, Table 6-E, Table 6-N and Table 6-S show this category based on license category 29 above with the substantive review increased from 41 to 62 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal. This increase results in approximately 90 calendar days for the entire substantive review time-frame.

Group III: Other wastewater licenses.

(21) Wastewater time extension approval. This license is authorized and identified at A.R.S. §§ 49-361 and 49-362 and A.A.C. R18-9-804(F). This license is subject to sanctions because the application requires substantive review and an application review fee. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-804(F) and require a Department-generated application form and an initial fee. The fee is identified in rule at R18-14-101 through R18-14-108. Table 6, Table 6-E, Table 6-N and Table 6-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 21 business days (approximately 30 calendar days) for the substantive review time-frame.

(22) Clean water act (CWA) § 208 consistency review approval. This license is authorized and identified at A.R.S. §§ 49-361 and 49-362 and A.A.C. R18-9-804(I) and R18-9-804(J). This license is not subject to sanctions because no fee is required for application review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-804(I) and R18-9-804(J) and require a Department-generated application form. Table 6, Table 6-E, Table 6-N and Table 6-S show this license with 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 21 business days (approximately 30 calendar days) for the substantive review time-frame.

7) Tables 7, 7-N, 7-S: Subdivision Construction Licenses

The Department issues the following subdivision construction licenses which are subject to licensing time-frame requirements as part of the Department's implementation of the state's safe drinking water program and wastewater collection and treatment program in accordance with A.R.S. §§ 49-351 through 49-356 and 49-361 through 49-391 and administered by the Department's Water Protection Approvals and Permits Section of the Water Quality Division. See the explanation of the Department's experience with these programs described above at § 6(H)(5). The following numbered license categories appear on Tables 7, 7-N and 7-S with the same corresponding numbers shown here in parentheses. Table 7 cover license issued by the Phoenix office, Table 7-N by the Northern Regional Office and Table 7-S by the Southern Regional Office. The times presented in Tables 7, 7-N and 7-S are based on current Department experience and assumptions that the provisions of this rule will apply and approximately 5 to 10% of applications will be processed in the various "complex" categories.

The arrangement of Table 7, 7-N and 7-S is presented as follows.

- Standard/complex subdivision water and wastewater approval (1-2).
- Standard/complex water and on-site wastewater subdivision approval (3-4).
- Standard/complex dry lot and on-site wastewater subdivision approval (5-6).

These license categories require an administrative completeness component of evidence of prior verification that § 208 requirements are satisfied.

(1) Standard subdivision water and wastewater approval. This license is authorized and identified at A.R.S. § 49-104(B)(11) and A.A.C. R18-5-401 through R18-5-411 and R18-9-804. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-5-401 through R18-5-411, R18-9-803, R18-9-804, and R18-9-806 and require a Department-generated application form, site inspection, an initial fee, and proof of prior verification that § 208 requirements are satisfied. The fee is identified in rule at R18-14-101 through R18-14-108. Table 7, Table 7-N and Table 7-S show this license category with 32 business days (approximately 45 calendar days) for the administrative completeness review time-frame and 37 business days (approximately 45 calendar days plus 1 week) for the substantive review time-frame. The additional 1 week allows the wastewater program to conduct final coordination activities after drinking water review is complete.

(2) Complex subdivision water and wastewater approval. Table 7, Table 7-N and Table 7-S show this category based on license category 1 above with the substantive review increased from 37 to 67 business days. This increase

Arizona Administrative Register
Notices of Final Rulemaking

accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

(3) Standard water and on-site wastewater subdivision approval. This license is authorized and identified at A.R.S. § 49-104(B)(11) and A.A.C. R18-5-401 through R18-5-411 and R18-9-804. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-5-401 through R18-5-411, R18-9-803, R18-9-804, and R18-9-806 and require a Department-generated application form, site inspection, an initial fee, and proof of prior verification that § 208 requirements are satisfied. The fee is identified in rule at R18-14-101 through R18-14-108. Table 7, Table 7-N and Table 7-S show this license with 32 business days (approximately 45 calendar days) for the administrative completeness review time-frame and 46 business days (approximately 60 calendar days plus 1 week) for the substantive review time-frame. The additional 1 week allows the wastewater program to conduct final coordination activities after drinking water review is complete.

(4) Complex water and on-site wastewater subdivision approval. Table 7, Table 7-N and Table 7-S show this category based on license category 3 above with the substantive review increased from 46 to 67 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

(5) Standard dry lot and on-site wastewater subdivision approval. This license is authorized and identified at A.R.S. § 49-104(B)(11) and A.A.C. R18-5-401 through R18-5-411 and R18-9-804. This license is subject to sanctions because it incurs an application review fee that is deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-5-401 through R18-5-411, R18-9-803, R18-9-804, and R18-9-806 and require a Department-generated application form, site inspection, an initial fee, and proof of prior verification that § 208 requirements are satisfied. The fee is identified in rule at R18-14-101 through R18-14-108. Table 7, Table 7-N and Table 7-S show this license with 32 business days (approximately 45 calendar days) for the administrative completeness review time-frame and 46 business days (approximately 60 calendar days plus 1 week) for the substantive review time-frame. This additional 1 week allows the wastewater program to conduct final coordination activities after drinking water review is complete.

(6) Complex dry lot and on-site wastewater subdivision approval. Table 7, Table 7-N and Table 7-S show this category based on license category 5 above with the substantive review increased from 46 to 67 business days. This increase accounts for applications that require a significant increase in Department resources in excess of standard application proposals due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.

8) Table 8: Safe Drinking Water Monitoring and Treatment Licenses.

a. Licenses subject to Article 7.1 licensing time-frame requirements.

The Department issues the following licenses as part of the Department's implementation of the state's safe drinking water and potable water systems program in accordance with A.R.S. §§ 49-351 through 49-360 and administered by the Department's Drinking Water Section of the Water Quality Division. The following numbered license categories appear on Table 8 with the same corresponding numbers shown here in parentheses. The arrangement of license categories on Table 8 is as follows.

Group I: Safe drinking water monitoring, sample, and sample site change and waiver licenses.

Monitoring frequency change approval (1).

Monitoring sample change approval (2).

Residual disinfectant concentration sampling interval approval (3).

Interim monitoring relief determination (4).

Man-made radioactivity environmental surveillance substitution approval (5).

Consecutive public water system monitoring requirements modification approval (6).

Trihalomethane source basis for sampling purposes approval (7).

Sodium multiple well sampling number reduction approval (8).

Turbidity monitoring frequency reduction approval (9).

Monitoring waiver approval (10).

Group II: Safe drinking water variance and exemption licenses.

Maximum contaminant level or treatment technique requirement variance with/without a public hearing (11-12).

Maximum contaminant level or treatment technique requirement exemption with/without a public hearing (13-14).

Arizona Administrative Register
Notices of Final Rulemaking

Maximum contaminant level or treatment technique requirement compliance extension approval (15).
Maximum contaminant level or treatment technique requirement compliance additional extension approval (16).
Safe drinking water requirement exclusion approval (17).
Backflow-prevention assembly third-party certifying entity designation approval (18).

Group III: Safe drinking water treatment and monitoring plan licenses.

Maximum contaminant level compliance blending plan approval (for 10 or fewer points-of-entry) (19).
Maximum contaminant level compliance blending plan approval (for more than 10 points of entry) (20).
Maximum contaminant level compliance blending plan change approval (for 10 or fewer points-of-entry) (21).
Maximum contaminant level compliance blending plan change approval (for more than 10 points of entry) (22).
Maximum contaminant level compliance at subsequent downstream service connections monitoring plan approval (23).
Point-of-entry treatment device monitoring plan approval (24).
Point-of-entry treatment device design approval (25).
Lead and copper source water treatment determination modification (26).
Lead and copper source water concentration determination modification (27).
Lead service line extent under system control determination (28).
Lead service line extent under system control rebuttable presumption determination (29).

Group IV: Lead and copper corrosion control licenses.

Lead and copper optimal corrosion control treatment approval (30).
Large water system lead and copper corrosion control activities equivalency demonstration approval (31).
Small and medium water system lead and copper corrosion control activities equivalency demonstration approval (32).
Lead and copper optimal corrosion treatment determination modification (33).
Lead and copper water quality control parameters determination modification (34).

Group I: Safe drinking water monitoring, sample, and sample site change and waiver licenses.

(1) Monitoring frequency change approval. These licenses are authorized and required by A.R.S § 49-353(A)(2) and A.A.C. R18-4-206 through R18-4-403. These licenses are not subject to sanctions because the Department does not collect fees from applicants for their issuance. These are Model E licenses because substantive review of non-uniform application components are required and a public hearing is not required. Application components are identified in rule as indicated below and require a Department-generated application form. Department experience is that approximately 2 months are required to process each of these licenses, or 42 business days. Table 8 breaks this up into 15 business days for administrative completeness review and 27 business days for substantive review.

(a) Inorganic chemical groundwater monitoring frequency (quarterly) reduction approval. This license is identified at A.A.C. R18-4-206(G)(1).

(b) Inorganic chemical surface water monitoring frequency (quarterly) reduction approval. This license is identified at A.A.C. R18-4-206(G)(2).

(c) Inorganic chemical monitoring frequency change approval. This license is identified at A.A.C. R18-4-206(J).

(d) Inorganic chemical groundwater monitoring frequency (triennial) reduction approval. This license is identified at A.A.C. R18-4-206(K)(1) and R18-4-206(K)(6).

(e) Inorganic chemical surface water monitoring frequency (annual) reduction approval. This license is identified at A.A.C. R18-4-206(K)(2) and R18-4-206(K)(6).

(f) Asbestos groundwater monitoring frequency (quarterly) reduction approval. This license is identified at A.A.C. R18-4-207(I)(1).

(g) Asbestos surface water monitoring frequency (quarterly) reduction approval. This license is identified at A.A.C. R18-4-207(I)(2).

(h) Nitrate surface water monitoring frequency (quarterly) reduction approval. This license is identified at A.A.C. R18-4-208(E).

(i) Nitrate groundwater monitoring frequency (quarterly) reduction approval. This license is identified at A.A.C. R18-4-208(F).

(j) Nitrate monitoring frequency (quarterly) reduction approval. This license is identified at A.A.C. R18-4-209(G).

Arizona Administrative Register
Notices of Final Rulemaking

- (k) Volatile organic compound (VOC) initial monitoring frequency (quarterly) reduction approval.** This license is identified at A.A.C. R18-4-212(E).
- (l) Volatile organic compound (VOC) monitoring frequency (annual) reduction approval.** This license is identified at A.A.C. R18-4-212(F).
- (m) Volatile organic compound (VOC) groundwater monitoring frequency (quarterly) reduction approval.** This license is identified at A.A.C. R18-4-212(G)(1).
- (n) Volatile organic compound (VOC) surface water monitoring frequency (quarterly) reduction approval.** This license is identified at A.A.C. R18-4-212(G)(2).
- (o) Volatile organic compound (VOC) groundwater monitoring frequency (quarterly) reduction approval.** This license is identified at A.A.C. R18-4-212(I)(3).
- (p) Volatile organic compound (VOC) groundwater monitoring frequency (annual) reduction approval.** This license is identified at A.A.C. R18-4-212(I)(3).
- (q) Volatile organic compound (VOC) surface water monitoring frequency (quarterly) reduction approval.** This license is identified at A.A.C. R18-4-212(I)(3).
- (r) Vinyl chloride monitoring (quarterly) reduction approval.** This license is identified at A.A.C. R18-4-213(A).
- (t) Trihalomethane groundwater source monitoring frequency (quarterly) reduction approval.** This license is identified at A.A.C. R18-4-214(F).
- (u) Synthetic organic compound (SOC) monitoring (quarterly) reduction approval (for systems serving more than 3300 persons).** This license is identified at A.A.C. R18-4-216(E), R18-4-216(G)(1).
- (v) Synthetic organic compound (SOC) monitoring (quarterly) reduction approval (for systems serving 3300 or fewer persons).** This license is identified at A.A.C. R18-4-216(E), R18-4-216(G)(2).
- (w) Synthetic organic compound (SOC) monitoring frequency (quarterly) reduction approval.** This license is identified at A.A.C. R18-4-216(H)(3).
- (x) Radiochemical monitoring frequency (quarterly) reduction approval.** This license is identified at A.A.C. R18-4-217(E)(1).
- (y) Man-made radioactivity monitoring frequency variance approval.** This license is identified at A.A.C. R18-4-217(H)(4).
- (z) Lead and copper tap water monitoring frequency (biannual) reduction approval.** This license is identified at A.A.C. R18-4-310(E).
- (aa) Lead and copper tap water monitoring frequency (annual) reduction approval.** This license is identified at A.A.C. R18-4-310(E)(2).
- (bb) Lead and copper tap water monitoring frequency (semiannual) reduction approval.** This license is identified at A.A.C. R18-4-313(K).
- (cc) Lead and copper tap water monitoring frequency (semiannual) reduction approval.** This license is identified at A.A.C. R18-4-313(M)(1).
- (dd) Lead and copper tap water monitoring frequency (semiannual) reduction approval.** This license is identified at A.A.C. R18-4-313(M)(2).
- (ee) Lead and copper tap water monitoring frequency (semiannual) reduction revision.** This license is identified at A.A.C. R18-4-313(M)(2).
- (ff) Lead and copper tap water monitoring frequency (annual) reduction approval.** This license is identified at A.A.C. R18-4-313(M)(4).
- (gg) Nickel groundwater monitoring frequency (triennial) reduction approval.** This license is identified at A.A.C. R18-4-403(E)(1).
- (hh) Nickel surface water monitoring frequency (annual) reduction approval.** This license is identified at A.A.C. R18-4-403(E)(2).
- (ii) Nickel groundwater monitoring frequency reduction approval.** This license is identified at A.A.C. R18-4-403(E)(1).

Arizona Administrative Register
Notices of Final Rulemaking

(jj) Nickel surface water monitoring frequency (annual) reduction approval. This license is identified at A.A.C. R18-4-403(E)(2).

(2) Monitoring sample change approval. These licenses are authorized and required by A.R.S § 49-353(A)(2) and A.A.C. R18-4-214 through R18-4-313. These licenses are not subject to sanctions because the Department does not collect fees from applicants for their issuance. These are Model E licenses because substantive review of non-uniform application components are required and a public hearing is not required. Application components are identified in rule as indicated below and require a Department-generated application form. Department experience is that approximately 2 months are required to process each of these licenses, or 42 business days. Table 8 breaks this up into 15 business days for administrative completeness review and 27 business days for substantive review.

(a) Trihalomethane sample number reduction approval. This license is identified at A.A.C. R18-4-214(E).

(b) Lead and copper tap water sampling number reduction approval. This license is identified at A.A.C. R18-4-310(E).

(c) Lead and copper tap water sampling site number reduction approval. This license is identified at A.A.C. R18-4-313(J).

(d) Lead and copper tap water sampling site number reduction approval. This license is identified at A.A.C. R18-4-313(M)(1).

(e) Lead and copper tap water sampling site number reduction approval. This license is identified at A.A.C. R18-4-313(M)(2).

(f) Lead and copper tap water sampling site number reduction revision. This license is identified at A.A.C. R18-4-313(M)(2).

(3) Residual disinfectant concentration sampling interval approval. This license is authorized and required by A.R.S § 49-353(A)(2) and governed by R18-4-303(B)(2)(a). This license is not subject to sanctions because the Department collects no fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-4-303 and require a Department-generated application form. Table 8 shows 15 business days (approximately 3 weeks) for administrative completeness review and 15 business days for substantive review.

(4) Interim monitoring relief determination. This license is authorized and required by A.R.S § 49-359(B)(3). This license is not subject to sanctions because the Department collects no fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at A.R.S. § 49-359(B) and require a Department-generated application form. Table 8 shows 21 business days (approximately month) for administrative completeness review and 41 business days (approximately 2 months) for substantive review.

(5) Man-made radioactivity environmental surveillance substitution approval. This license is authorized and required by A.R.S § 49-353(A)(2) and A.A.C. R18-4-217(H)(3)(d). This license is not subject to sanctions because the Department collects no fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-4-217(H)(3)(d) and require a Department-generated application form. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 62 business days (approximately 3 months) for substantive review.

(6) Consecutive public water system monitoring requirements modification approval. This license is identified and required at A.R.S. § 49-353(A)(2) and governed by A.A.C. R18-4-113. This license is not subject to sanctions because the Department collects no fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-4-113 and require a Department-generated application form and site inspection. As part of this application review process, the Department prepares a monitoring schedule that must be approved by EPA. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 84 business days (approximately 4 months) for substantive review.

(7) Trihalomethane source basis for sampling purposes approval. This license is identified and required at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-214(C). This license is not subject to sanctions because the Department collects no fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-4-214 and require a Department-generated application form and site inspection. Table 8 shows 21 business

Arizona Administrative Register
Notices of Final Rulemaking

days (approximately 1 month) for administrative completeness review and 167 business days (approximately 8 months) for substantive review.

(8) Sodium multiple well sampling number reduction approval. This license is identified and required at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-402(B). This license is not subject to sanctions because the Department collects no fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-4-402 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 167 business days (approximately 8 months) for substantive review.

(9) Turbidity monitoring frequency reduction approval. This license is identified and required at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-302(H). This license is not subject to sanctions because the Department collects no fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-4-302 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 167 business days (approximately 8 months) for substantive review.

(10) Monitoring waiver approval. These licenses are authorized and required by A.R.S. § 49-353(A)(2) and A.A.C. R18-4-206 through R18-4-404. These licenses are not subject to sanctions because the Department collects no fees from applicants for their issuance. These are Model E licenses because substantive review of non-uniform application components are required and a public hearing is not required. Application components are identified in rule as indicated below and require a Department-generated application form. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 167 business days (approximately 8 months) for substantive review.

(a) Cyanide monitoring waiver approval. This license is identified at A.A.C. R18-4-206(L).

(b) Asbestos monitoring waiver approval. This license is identified at A.A.C. R18-4-207(L).

(c) Asbestos monitoring waiver renewal. This license is identified at A.A.C. R18-4-207(L)(2).

(d) Volatile organic compound (VOC) monitoring waiver approval. This license is identified at A.A.C. R18-4-212(E).

(e) Volatile organic compound (VOC) surface water monitoring use waiver approval. This license is identified at A.A.C. R18-4-212(K)(1).

(f) Volatile organic compound (VOC) groundwater monitoring use waiver approval. This license is identified at A.A.C. R18-4-212(K)(1).

(g) Volatile organic compound (VOC) surface water monitoring susceptibility waiver approval. This license is identified at A.A.C. R18-4-212(K)(2).

(h) Volatile organic compound (VOC) groundwater monitoring susceptibility waiver approval. This license is identified at A.A.C. R18-4-212(K)(2).

(i) Volatile organic compound (VOC) surface water monitoring use waiver renewal approval. This license is identified at A.A.C. R18-4-212(K)(4).

(j) Volatile organic compound (VOC) groundwater monitoring use waiver renewal approval. This license is identified at A.A.C. R18-4-212(K)(3).

(k) Volatile organic compound (VOC) surface water monitoring susceptibility waiver renewal approval. This license is identified at A.A.C. R18-4-212(K)(4).

(l) Volatile organic compound (VOC) groundwater monitoring susceptibility waiver renewal approval. This license is identified at A.A.C. R18-4-212(K)(3).

(m) Synthetic organic compound (VOC) monitoring use waiver approval. This license is identified at A.A.C. R18-4-216(M)(1).

(n) Synthetic organic compound (SOC) monitoring susceptibility waiver approval. This license is identified at A.A.C. R18-4-216(M)(2).

(o) Radium-228 monitoring waiver approval. This license is identified at A.A.C. R18-4-217(E)(2).

Group II: Safe drinking water variance and exemption licenses.

(11) Maximum contaminant level or treatment technique requirement variance with no public hearing. This license as a maximum contaminant level (MCL) compliance variance is identified at A.R.S. § 49-353(A) and A.A.C. R18-4-110(A). This license as a treatment technique requirement variance is identified at R18-4-110(B). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components for both MCL compliance variances and treatment technique requirement variances are identified at R18-4-110(D) and require a Department-generated application form and site inspection. Certain review times are identified in rule. R18-4-110(G) provides that the Department shall make a proposed decision within 90 days of receipt of the application. The applicant water supplier then provides public notice and has an additional 30 days to submit additional information if the preliminary decision is to deny. The Department then makes a final decision within 30 days after receipt of the additional information. Based on these review times, Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 105 business days (approximately 5 months) for substantive review.

(12) Maximum contaminant level or treatment technique requirement variance with a public hearing. This is the same licenses identified in category 11 above when a public hearing is held on the Department's proposed decision (making it a Model F license). A.A.C. R18-4-110(H) provides for a hearing if a request is made within 30 days after public notice. If so, the hearing is held in accordance with R18-1-402. Accordingly, Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 187 business days (approximately 9 months) for substantive review.

(13) Maximum contaminate level or treatment technique requirement exemption with no public hearing.

This license as a maximum contaminant level (MCL) compliance exemption or a treatment technique requirement exemption is identified at A.R.S. § 49-353(A) and A.A.C. R18-4-111. This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components for both MCL compliance exemptions and treatment technique requirement exemptions are identified at R18-4-111(E)-(F) and require a Department-generated application form and site inspection. Certain review times are identified in rule. R18-4-111(H) provides that the Department shall make a proposed decision within 90 days of receipt of the application. The applicant water supplier then provides public notice and has an additional 30 days to submit additional information if the preliminary decision is to deny. The Department then makes a final decision within 30 days after receipt of the additional information. Based on these review times, Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 105 business days (approximately 5 months) for substantive review.

(14) Maximum contaminant level or treatment technique requirement exemption with a public hearing. This is the same licenses identified in category 13 above when a public hearing is held on the Department's proposed decision (making it a Model F license). A.A.C. R18-4-111 provides for a hearing if a request is made within 30 days after public notice. If so, the hearing is held in accordance with R18-1-402. Accordingly, Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 187 business days (approximately 9 months) for substantive review.

(15) Maximum contaminant level or treatment technique requirement compliance extension approval. This license is identified at A.R.S. § 49-353(A) and A.A.C. R18-4-111(C). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-111(E)-(F) and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 32 business days (approximately 45 calendar days) for substantive review.

(16) Maximum contaminant level or treatment technique requirement compliance additional extension approval. This license is identified at A.R.S. § 49-353(A) and A.A.C. R18-4-111(C)(4). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-111(E)-(F) and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 42 business days (approximately 2 months) for substantive review.

(17) Safe drinking water requirement exclusion approval. This license is identified at A.R.S. § 49-353(A) and A.A.C. R18-4-112(A). This license is not subject to sanctions because the Department collects no fees from appli-

cants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-112(B) and require a Department-generated application form and site inspection. R18-4-112(C)(1) requires the Department to make a licensing decision within 90 days of application receipt. If the decision is an intent to deny, R18-4-112(C)(2) provides that the applicant has 30 days to submit additional information at which time a final licensing decision shall be made within 30 days of receiving the additional information. Based on these time-frames, Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 42 business days (approximately 2 months) for substantive review.

(18) Backflow-prevention assembly third-party certifying entity designation approval. This license is identified at A.R.S. § 49-353(A) and A.A.C. R18-4-115(D)(2). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-115 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 105 business days (approximately 5 months) for substantive review.

Group III: Safe drinking water treatment and monitoring plan licenses.

(19) Maximum contaminant level compliance blending plan approval (for 10 or fewer points-of-entry). This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-221(A). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-221 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 42 business days (approximately 2 months) for substantive review.

(20) Maximum contaminant level compliance blending plan approval (for more than 10 fewer points-of-entry). This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-221(A). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-221 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 84 business days (approximately 4 months) for substantive review.

(21) Maximum contaminant level compliance blending plan change approval (with 10 or fewer points-of-entry). This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-221(B). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-221 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 42 business days (approximately 2 months) for substantive review.

(22) Maximum contaminant level compliance blending plan change approval (with more than 10 points-of-entry). This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-221(B). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-221 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 84 business days (approximately 4 months) for substantive review.

(23) Maximum contaminant level compliance at subsequent downstream service connections monitoring plan approval. This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-221(A)(2). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-221 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 125 business days (approximately 6 months) for substantive review.

(24) Point-of-entry treatment device monitoring plan approval. This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-222(B)(1). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-

Arizona Administrative Register
Notices of Final Rulemaking

222 and require a Department-generated application form and site inspection. Table 8 shows 15 business days (approximately 3 weeks) for administrative completeness review and 15 business days for substantive review.

(25) Point-of-entry treatment device design approval. This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-222(B)(2). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-222 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 167 business days (approximately 8 months) for substantive review.

(26) Lead and copper source water treatment determination modification. This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-313(N). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-313 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 167 business days (approximately 8 months) for substantive review.

(27) Lead and copper source water concentration determination modification. This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-314(N) and is subject to time-frame requirements only if a water system is the applicant. This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-314 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 167 business days (approximately 8 months) for substantive review.

(28) Lead service line extent under system control determination. This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-315(D). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-315 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 105 business days (approximately 5 months) for substantive review.

(29) Lead service line extent under system control rebuttable presumption determination. This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-315(E). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-315 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 105 business days (approximately 5 months) for substantive review.

Group IV: Lead and copper corrosion control licenses.

(30) Lead and copper optimal corrosion control treatment approval. This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-313(A). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-313 and require a Department-generated application form and site inspection. Table 8 shows 42 business days (approximately 2 months) for administrative completeness review and 502 business days (approximately 2 years) for substantive review.

(31) Large water system lead and copper corrosion control activities equivalency demonstration approval. This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-306(B)(1). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-306 and require a Department-generated application form and site inspection. Table 8 shows 42 business days (approximately 2 months) for administrative completeness review and 502 business days (approximately 2 years) for substantive review.

(32) Small and medium water system lead and copper corrosion control activities equivalency demonstration approval. This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-307(B)(2). This license is

Arizona Administrative Register
Notices of Final Rulemaking

not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-307 and require a Department-generated application form and site inspection. Table 8 shows 21 business days (approximately 1 month) for administrative completeness review and 502 business days (approximately 2 years) for substantive review.

(33) Lead and copper optimal corrosion treatment determination modification. This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-313(N). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-313 and require a Department-generated application form and site inspection. Table 8 shows 42 business days (approximately 2 months) for administrative completeness review and 376 business days (approximately 18 months) for substantive review.

(34) Lead and copper water quality control parameters determination modification. This license is identified at A.R.S. § 49-353(A) and governed by A.A.C. R18-4-313(N). This license is not subject to sanctions because the Department collects no fees from applicants for their issuance. This is a Model E licenses because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-4-313 and require a Department-generated application form and site inspection. Table 8 shows 42 business days (approximately 2 months) for administrative completeness review and 376 business days (approximately 18 months) for substantive review.

b. Licenses not subject to Article 7.1 licensing time-frame requirements.

The Department has determined that the following licenses are not subject to Article 7.1 time-frame requirements for the reasons given below.

(1) Initial monitoring year designation. This license is identified at A.A.C. R18-4-101(44). This license is not subject to Article 7.1 licensing time-frames requirements because it is issued at the initiative of the Department and not in response to applications submitted by prospective licensees.

(2) Record keeping requirements. This license is identified at A.A.C. R18-4-103. This is a Model A license because it is obtained through mere compliance with the rule by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(3) Maximum contaminant level routine reporting. This license is identified at A.A.C. R18-4-104(A). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(4) Maximum contaminant level violation reporting. This license is identified at A.A.C. R18-4-104(B). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(5) Filtration reporting. This license is identified at A.A.C. R18-4-104(C). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(6) Disinfection reporting. This license is identified at A.A.C. R18-4-104(D). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(7) Lead and copper tap water reporting. This license is identified at A.A.C. R18-4-104(E). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(8) Lead and copper tap water monitoring R18-4-309(A)(1) sample pool failure justification. This license is identified at A.A.C. R18-4-104(E)(6). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(9) Lead and copper tap water monitoring R18-4-309(A)(2) sample pool failure justification. This license is identified at A.A.C. R18-4-104(E)(7). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(10) Lead and copper tap water monitoring R18-4-309(A)(4) site location failure justification. This license is identified at A.A.C. R18-4-104(E)(8). This is a Model B license because it is obtained through notification to the

Arizona Administrative Register
Notices of Final Rulemaking

Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(11) Water quality parameter reporting. This license is identified at A.A.C. R18-4-104(F). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(12) Lead and copper source water reporting. This license is identified at A.A.C. R18-4-104(G). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(13) Lead and copper service line replacement reporting. This license is identified at A.A.C. R18-4-104(H). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(14) Initial lead service line materials evaluation demonstration. This license is identified at A.A.C. R18-4-104(H)(1). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(15) Initial lead service line replacement demonstration. This license is identified at A.A.C. R18-4-104(H)(2)(a). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(16) Lead service line concentration sampling demonstration. This license is identified at A.A.C. R18-4-104(H)(2)(b). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(17) Special monitoring reporting. This license is identified at A.A.C. R18-4-104(I). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(18) Cross connection incident reporting. This license is identified at A.A.C. R18-4-104(K). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(19) Emergency reporting. This license is identified at A.A.C. R18-4-104(L). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(20) Waterborne disease outbreak reporting. This license is identified at A.A.C. R18-4-104(M). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(21) Confirmation sample results reporting. This license is identified at A.A.C. R18-4-104(N). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(22) Public notice representative sample submittal. This license is identified at A.A.C. R18-4-104(O). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(23) Record and document copy submittal. This license is identified at A.A.C. R18-4-104(P). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(24) Completed analyses reporting. This license is identified at A.A.C. R18-4-104(Q). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(25) General public notification requirements. This license is identified at A.A.C. R18-4-105. This is a Model A license because it is obtained through mere compliance with the rule by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

Arizona Administrative Register
Notices of Final Rulemaking

(26) Analytical methods requirements. This license is identified at A.A.C. R18-4-106. This is a Model A license because it is obtained through mere compliance with the rule by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(27) Alternative analytical method approval. This license is identified at A.A.C. R18-4-106(B). This license is administered by the department of health services as identified at R9-14-607(B). As a result, it is not included in this rule because it is not issued by the Department.

(28) Laboratory requirements. This license is identified at A.A.C. R18-4-107. This is a Model A license because it is obtained through mere compliance with the rule by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(29) Sample collection, preservation, and transportation requirements. This license is identified at A.A.C. R18-4-108. This is a Model A license because it is obtained through mere compliance with the rule by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(30) Sample collection, preservation, and transportation approval. This license is identified at A.A.C. R18-4-109. This license is administered by the department of health services. As a result, it is not included in this rule because it is not issued by the Department.

(31) Bottled water monitoring program approval. This license is identified at A.A.C. R18-4-110(K)(1). This license is not subject to Article 7.1 licensing time-frames requirements because it represents compliance activity within the context of an initial license already issued by the by the Department.

(32) Bottled water company approved source certification waiver. This license is identified at A.A.C. R18-4-110(K)(2). This is a Model A license because it is obtained through mere compliance with the rule by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(33) Backflow prevention requirements. This license is identified at A.A.C. R18-4-115. This is a Model A license because it is obtained through mere compliance with the rule by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(34) Emergency operation plan requirements. This license is identified at A.A.C. R18-4-116. This is a Model A license because it is obtained through mere compliance with the rule by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(35) Sanitary survey requirement determination. This license is identified at A.A.C. R18-4-118(A). This license is not subject to Article 7.1 licensing time-frames requirements because it is issued at the initiative of the Department and not in response to applications submitted by prospective licensees.

(36) Sanitary survey professional engineer or sanitarian approval. This license is identified at A.A.C. R18-4-118(D). This license is not subject to Article 7.1 licensing time-frames requirements because it represents contractual activity exempted by A.R.S. § 41-1006(16).

(37) Additives requirements. This license is identified at A.A.C. R18-4-119. This is a Model A license because it is obtained through mere compliance with the rule by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(38) Vending machine requirements. This license is identified at A.A.C. R18-4-123. This is a Model A license because it is obtained through mere compliance with the rule by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(39) Operation and maintenance requirements. This license is identified at A.A.C. R18-4-124. This is a Model A license because it is obtained through mere compliance with the rule by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(40) Hauled water requirements. This license is identified at A.A.C. R18-4-125. This is a Model A license because it is obtained through mere compliance with the rule by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(41) Asbestos sampling data consistency determination. This license is identified at A.A.C. R18-4-207(G). This license is not subject to Article 7.1 licensing time-frames requirements because it is no longer applicable due to passage of time.

Arizona Administrative Register
Notices of Final Rulemaking

(42) Man-made radioactivity monitoring frequency variance approval. This license is identified at A.A.C. R18-4-217(H)(4). This license is issued within other approvals and, therefore, not independently subject to Article 7.1 licensing time-frames requirements. In this case, it is issued within an 18 A.A.C. 4 Article 1 variance approval license.

(43) Man-made radioactivity monitoring frequency exemption approval. This license is identified at A.A.C. R18-4-217(H)(4). This license is issued within other approvals and, therefore, not independently subject to Article 7.1 licensing time-frames requirements. In this case, it is issued within an 18 A.A.C. 4 Article 1 variance approval license.

(44) Best available technology de minimis reduction assessment approval. This license is identified at A.A.C. R18-4-220(F). Issued within an Article 1 variance This license is issued within other approvals and, therefore, not independently subject to Article 7.1 licensing time-frames requirements. In this case, it is issued within an 18 A.A.C. 4 Article 1 variance approval license.

(45) Lead and copper corrosion control monitoring demonstration. This license is identified at A.A.C. R18-4-307(B)(2). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(46) Lead and copper corrosion control monitoring demonstration. This license is identified at A.A.C. R18-4-307(B)(3). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(47) Lead and copper corrosion control steps compliance submission. This license is identified at A.A.C. R18-4-307(C). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(48) Lead and copper inadequate number of Tier 1 sites materials survey explanation. This license is identified at A.A.C. R18-4-309(B)(2). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(49) Lead and copper inadequate number of sampling sites materials survey explanation. This license is identified at A.A.C. R18-4-309(B)(3). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(50) Small or medium system lead and copper optimal corrosion control treatment approval. This license is identified at A.A.C. R18-4-311(H). This license is not subject to Article 7.1 licensing time-frames requirements because it is issued at the initiative of the Department and not in response to applications submitted by prospective licensees.

(51) Small or medium system lead and copper optimal corrosion control treatment approval. This license is identified at A.A.C. R18-4-312(G). This license is not subject to Article 7.1 licensing time-frames requirements because it is issued at the initiative of the Department and not in response to applications submitted by prospective licensees.

(52) Large system lead and copper optimal corrosion control treatment approval. This license is identified at A.A.C. R18-4-312(G). This license is not subject to Article 7.1 licensing time-frames requirements because it is no longer applicable due to passage of time.

(53) Lead and copper water quality control parameters determination. This license is identified at A.A.C. R18-4-313(F). This license is not subject to Article 7.1 licensing time-frames requirements because it is issued at the initiative of the Department and not in response to applications submitted by prospective licensees.

(54) Lead and copper water quality parameter point-of-entry pH value designation. This license is identified at A.A.C. R18-4-313(F)(1). This license is not subject to Article 7.1 licensing time-frames requirements because it is issued at the initiative of the Department and not in response to applications submitted by prospective licensees.

(55) Lead and copper water quality parameter pH level requirement determination. This license is identified at A.A.C. R18-4-313(F)(2). This license is not subject to Article 7.1 licensing time-frames requirements because it is issued at the initiative of the Department and not in response to applications submitted by prospective licensees.

(56) Lead and copper corrosion inhibitor concentration determination. This license is identified at A.A.C. R18-4-313(F)(3). This license is not subject to Article 7.1 licensing time-frames requirements because it is issued at the initiative of the Department and not in response to applications submitted by prospective licensees.

(57) Lead and copper alkalinity concentration determination. This license is identified at A.A.C. R18-4-313(F)(4). This license is not subject to Article 7.1 licensing time-frames requirements because it is issued at the initiative of the Department and not in response to applications submitted by prospective licensees.

(58) Lead and copper calcium concentration determination. This license is identified at A.A.C. R18-4-313(F)(5). This license is not subject to Article 7.1 licensing time-frames requirements because it is issued at the initiative of the Department and not in response to applications submitted by prospective licensees.

(59) Lead and copper other water quality parameters determination. This license is identified at A.A.C. R18-4-313(F)(6). This license is not subject to Article 7.1 licensing time-frames requirements because it is issued at the initiative of the Department and not in response to applications submitted by prospective licensees.

(60) Lead and copper source water treatment approval. This license is identified at A.A.C. R18-4-314(E), R18-4-314(G). This license is issued within other approvals and, therefore, not independently subject to Article 7.1 licensing time-frames requirements. In this case, it is issued within an 18 A.A.C. 4 Article 5 approval to construct.

(61) Lead and copper source water treatment installation and operation approval. This license is identified at A.A.C. R18-4-314(J). This license is not subject to Article 7.1 licensing time-frames requirements because it is issued at the initiative of the Department and not in response to applications submitted by prospective licensees.

(62) Lead materials survey and annual replacement schedule compliance determination. This license is identified at A.A.C. R18-4-315(H)(1). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(63) Lead materials survey and annual replacement schedule compliance determination. This license is identified at A.A.C. R18-4-315(H)(2). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

(64) Lead public education compliance demonstration. This license is identified at A.A.C. R18-4-316(G). This is a Model B license because it is obtained through notification to the Department by the licensee. This means that this license is not subject to Article 7.1 licensing time-frames requirements because it is not issued by the Department.

9) Table 9: Water and Wastewater Facility Operator Licenses

The Department issues the following operator licenses which are subject to licensing time-frame requirements as part of the Department's implementation of the state's safe drinking water program and wastewater collection and treatment program in accordance with A.R.S. §§ 49-352 and 49-361 and administered by the Department's Water Protection Approvals and Permits Section of the Water Quality Division. The following numbered license categories appear on Table 9 with the same corresponding numbers shown here in parentheses. The arrangement of Table 9 is presented as follows.

Group I: Drinking water operator licenses.

Drinking water treatment or distribution facility operator new certification (1).

Drinking water treatment or distribution facility operator renewal certification (2).

Drinking water treatment or distribution facility operator reciprocity certification (3).

Drinking water treatment or distribution facility operator certification without examination (4).

Group II: Wastewater operator licenses.

Wastewater treatment or collection facility operator new certification (6).

Wastewater treatment or collection facility operator renewal certification (7).

Wastewater treatment or collection system operator reciprocity certification (8).

Wastewater treatment or collection system operator certification without examination (9).

Group I: Drinking water operator licenses.

(1) Drinking water treatment or distribution facility operator new certification. This license is authorized and identified at A.R.S. § 49-352 and A.A.C. R18-5-105. This license is not subject to sanctions because fees charged for application review are deposited in the state general fund. This is a Model D license because substantive review of uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-5-101 through R18-5-115 and require a Department-generated application form, the availability of test space and an initial fee. Application review fees are identified at R18-5-113. Table 9 shows this license with 105

Arizona Administrative Register
Notices of Final Rulemaking

business days (approximately 5 months) for the administrative completeness review time-frame and 10 business days (approximately 2 weeks) for the substantive review time-frame. Department experience is that substantive review usually takes only a few days of Department time. Substantive review, however, requires evaluation of a written examination, an application component. Examinations are held 4 times a year with the application deadline set on the 1st day of the month prior to each application. In each examination month, examination sessions are repeated on 3 successive Saturdays with applicants having the choice of which Saturday they will attend. Once the examination is taken, a Department licensing decision usually occurs within 1 week. This means that total application review time will vary depending upon when in the examination cycle the application is received. The time shown for the administrative completeness review time-frame takes this into account.

(2) Drinking water treatment or distribution facility operator renewal certification. This license is authorized and identified at A.R.S. § 49-352 and A.A.C. R18-5-107 and R18-5-108(D). This license is not subject to sanctions because fees charged for application review are deposited in the state general fund. This is a Model D license because substantive review of uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-5-101 through R18-5-115 and require a Department-generated application form and an initial fee. Application review fees are identified at R18-5-113. Table 9 shows this license with 42 business days (approximately 2 months) for the administrative completeness review time-frame and 10 business days (approximately 2 weeks) for the substantive review time-frame.

(3) Drinking water treatment or distribution facility operator reciprocity certification. This license is authorized and identified at A.R.S. § 49-352 and A.A.C. R18-5-110(A). This license is not subject to sanctions because fees charged for application review are deposited in the state general fund. This is a Model D license because substantive review of uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-5-101 through R18-5-115 and require a Department-generated application form and an initial fee. Application review fees are identified at R18-5-113. Table 9 shows this license category with 42 business days (approximately 2 months) for the administrative completeness review time-frame and 10 business days (approximately 2 weeks) for the substantive review time-frame.

(4) Drinking water treatment or distribution facility operator certification without examination. This license is authorized and identified at A.R.S. § 49-352 and A.A.C. R18-5-111. This license is not subject to sanctions because fees charged for application review are deposited in the state general fund. This is a Model D license because substantive review of uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-5-101 through R18-5-115 and require a Department-generated application form and an initial fee. Application review fees are identified at R18-5-113. Table 9 shows this license with 42 business days (approximately 2 months) for the administrative completeness review time-frame and 10 business days (approximately 2 weeks) for the substantive review time-frame.

Group II: Wastewater operator licenses.

(5) Wastewater treatment or collection facility operator new certification. This license is authorized and identified at A.R.S. § 49-361 and A.A.C. R18-5-105. This license is not subject to sanctions because fees charged for application review are deposited in the state general fund. This is a Model D license because substantive review of uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-5-101 through R18-5-115 and require a Department-generated application form, the availability of test space and an initial fee. Application review fees are identified at R18-5-113. Table 9 shows this license with 105 business days (approximately 5 months) for the administrative completeness review time-frame and 10 business days (approximately 2 weeks) for the substantive review time-frame. Department experience is that substantive review usually takes only a few days of Department time. Substantive review, however, requires evaluation of a written examination, an application component. Examinations are held 4 times a year with the application deadline set on the 1st day of the month prior to each application. In each examination month, examination sessions are repeated on 3 successive Saturdays with applicants having the choice of which Saturday they will attend. Once the examination is taken, a Department licensing decision usually occurs within 1 week. This means that total application review time will vary depending upon when in the examination cycle the application is received. The time shown for the administrative completeness review time-frame takes this into account.

(6) Wastewater treatment or collection facility operator renewal certification. This license is authorized and identified at A.R.S. § 49-361 and A.A.C. R18-5-107 and R18-5-108(D). This license is not subject to sanctions because fees charged for application review are deposited in the state general fund. This is a Model D license because substantive review of uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-5-101 through R18-5-115 and require a Department-generated application form and an initial fee. Application review fees are identified at R18-5-113. Table 9 shows this license with 42 busi-

ness days (approximately 2 months) for the administrative completeness review time-frame and 10 business days (approximately 2 weeks) for the substantive review time-frame.

(7) Wastewater treatment or collection system operator reciprocity certification. This license is authorized and identified at A.R.S. § 49-361 and A.A.C. R18-5-110(A). This license is not subject to sanctions because fees charged for application review are deposited in the state general fund. This is a Model D license because substantive review of uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-5-101 through R18-5-115 and require a Department-generated application form and an initial fee. Application review fees are identified at R18-5-113. Table 9 shows this license with 42 business days (approximately 2 months) for the administrative completeness review time-frame and 10 business days (approximately 2 weeks) for the substantive review time-frame.

(8) Wastewater treatment or collection system operator certification without examination. This license is authorized and identified at A.R.S. § 49-361 and A.A.C. R18-5-111. This license is not subject to sanctions because fees charged for application review are deposited in the state general fund. This is a Model D license because substantive review of uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-5-101 through R18-5-115 and require a Department-generated application form and an initial fee. Application review fees are identified at R18-5-113. Table 9 shows this license with 42 business days (approximately 2 months) for the administrative completeness review time-frame and 10 business days (approximately 2 weeks) for the substantive review time-frame.

10) Table 10: Water Quality Licenses

a. Licenses subject to Article 7.1 licensing time-frame requirements.

The Department issues the following licenses as part of the Department's implementation of the state's water quality standards (WQS) and aquifer protection program (APP) in accordance with A.R.S. §§ 49-221 through 49-265 and administered by the Department's Water Permits Section of the Water Quality Division. The following numbered license categories appear on Table 10 with the same corresponding numbers shown here in parentheses. The license categories are divided 1st into 5 groups representing the major permit classifications identified in R18-14-101 through R18-14-108; second, into the new, major modification, and other modification categories also identified in R18-14-101 through R18-14-108; third, into applications requiring or not requiring a public hearing; and fourth, into standard and complex categories. The resulting arrangement of license categories on Table 10 is as follows:

Group I: Wastewater treatment facility individual aquifer protection (AP) licenses.

Standard wastewater treatment facility AP new permit without/with a public hearing (1-2).

Complex wastewater treatment facility AP new permit without/with a public hearing (3-4).

Standard wastewater treatment facility AP major modification permit without/with a public hearing (5-6).

Complex wastewater treatment facility AP major modification permit without/with a public hearing (7-8).

Standard/complex wastewater treatment facility AP other modification permit (9-10).

Wastewater treatment facility AP permit transfer approval (11).

Wastewater treatment facility AP closure plan approval (12).

Standard/complex wastewater treatment facility AP post-closure plan approval (13-14).

Wastewater treatment facility AP voluntary environmental mitigation use restriction (VEMUR) approval (15).

Wastewater treatment facility AP VEMUR cancellation approval (16).

Group II: Wastewater treatment facility (with recharge component) individual aquifer protection (AP) licenses.

Standard wastewater treatment facility (with recharge component) AP new permit without/with a public hearing (17-18).

Complex wastewater treatment facility (with recharge component) AP new permit without/with a public hearing (19-20).

Standard wastewater treatment facility (with recharge component) AP major modification permit without/with a public hearing (21-22).

Complex wastewater treatment facility (with recharge component) AP major modification permit without/with a public hearing (23-24).

Standard/complex wastewater treatment facility (with recharge component) AP other modification permit (25-26).

Group III: Small BADCT wastewater treatment facility (with designs less than 250,000 gpd) individual discharging aquifer protection (AP) licenses.

Standard small BADCT wastewater treatment facility AP new permit without/with a public hearing (27-28).

Complex small BADCT wastewater treatment facility AP new permit without/with a public hearing (29-30).

Standard small BADCT wastewater treatment facility AP major modification permit without/with a public hearing (31-32).

Complex small BADCT wastewater treatment facility AP major modification permit without/with a public hearing

Arizona Administrative Register
Notices of Final Rulemaking

(33-34).

Standard/complex small BADCT wastewater treatment facility AP other modification permit (35-36).

Small BADCT wastewater treatment facility AP permit transfer approval (37).

Small BADCT wastewater treatment facility AP closure plan approval (38).

Standard/complex small BADCT wastewater treatment facility AP post-closure plan approval (39-40).

Small BADCT wastewater treatment facility AP VEMUR approval (41).

Small BADCT wastewater treatment facility AP VEMUR cancellation approval (42).

Group IV: Industrial facility individual discharging aquifer protection (AP) licenses.

Standard industrial facility AP new permit without/with a public hearing (43-44).

Complex industrial facility AP new permit without/with a public hearing (45-46).

Standard industrial facility AP major modification permit without/with a public hearing (47-48).

Complex industrial facility AP major modification permit without/with a public hearing (49-50).

Standard/complex industrial facility AP other modification permit (51-52).

Industrial facility AP permit transfer approval (53).

Industrial facility AP closure plan approval (54).

Standard/complex industrial facility AP post-closure plan approval (55-56).

Industrial facility AP VEMUR approval (57).

Industrial facility AP VEMUR cancellation approval (58).

Group V: Mine facility individual discharging aquifer protection (AP) licenses.

Standard mine facility AP new permit without/with a public hearing (59-60).

Complex mine facility AP new permit without/with a public hearing (61-62).

Standard mine facility AP major modification permit without/with a public hearing (63-64).

Complex mine facility AP major modification permit without/with a public hearing (65-66).

Standard/complex mine facility AP other modification permit (67-68).

Mine facility AP permit transfer approval (69).

Mine facility AP closure plan approval (70).

Standard/complex mine facility AP post-closure plan approval (71-72).

Mine facility AP VEMUR approval (73).

Mine facility AP VEMUR cancellation approval (74).

Group VI: Other discharging facility individual discharging aquifer protection (AP) licenses.

Standard other discharging facility AP new permit without/with a public hearing (75-76).

Complex other discharging facility AP new permit without/with a public hearing (77-78).

Standard other discharging facility AP major modification permit without/with a public hearing (79-80).

Complex other discharging facility AP major modification permit without/with a public hearing (81-82).

Standard/complex other discharging facility AP other modification permit (83-84).

Other discharging facility AP permit transfer approval (85).

Other discharging facility AP closure plan approval (86).

Standard/complex other discharging facility AP post-closure plan approval (87-88).

Other discharging facility AP VEMUR approval (89).

Other discharging facility AP VEMUR cancellation approval (90).

Group VII: Reclaimed wastewater reuse licenses.

Standard reclaimed wastewater reuse new permit without/with a public hearing (91-92).

Complex reclaimed wastewater reuse new permit without/with a public hearing (93-94).

Standard reclaimed wastewater reuse major modification permit without/with a public hearing (95-96).

Complex reclaimed wastewater reuse major modification permit without/with a public hearing (97-98).

Standard/complex reclaimed wastewater reuse other modification permit (99-100).

Reclaimed wastewater reuse permit transfer approval (101).

Group VIII: Noneffluent groundwater recharge licenses.

Standard/complex noneffluent groundwater recharge approval (102-103).

Noneffluent groundwater recharge pilot project time extension approval (104).

Group IX: Facility registration licenses.

Dry well registration (105).

Significant industrial user registration (106).

Group X: Pesticide contamination prevention licenses.

New pesticide approval (107).

Arizona Administrative Register
Notices of Final Rulemaking

Active ingredient or pesticide criticality determination (108).

Pesticide addition to or deletion from groundwater protection list approval (109).

Although appearing complicated, this structure follows that of the statute and rules as well as Department experience and staffing allocation. Further, this structure responds directly to the requirement at A.R.S. § 41-1073(C) that an agency shall consider certain factors when adopting time-frames including the complexity of the licensing subject matter (reflected in the “standard/complex” category differentiation), agency resources (reflected in setting time-frames responsive to current and expected Department resource levels), and the economic impact of delay on the regulated community (reflected in splitting categories into “standard/complex” and “with/without a public hearing” with differing times so as not to submit all applicants to the longest reasonably required time-frame necessary to review the more complicated applications).

The Department anticipates that AP permit applications will be accepted in the 1st instance as falling within a standard category with no public hearing. The Department would then transfer the application to other categories later as appropriate using its authority under draft rule R18-1-516 to make such transfers. If a decision is made to hold a public hearing, the decision to do so would transfer the application to the corresponding category providing for a public hearing. In addition, at any time during the review process, the Department may transfer the application from a standard to its corresponding complex category if it determines that substituted application components or public comment presents complex, novel or highly technical issues requiring additional review time.

The standard categories identified below all reflect the review times now in rule converted to business days. In each case, the categories are divided to provide review times either with or without a public hearing when either result is a possibility under the application category. Further, a corresponding complex category is identified for each standard category in turn. Department experience is that not all AP applications result in a request to hold a public hearing. Setting a single time in rule for all applications would require that the time-frames always anticipate a public hearing, meaning longer times for all applicants. The spirit of Article 7.1 strongly suggests that a shorter time be set for applicants not required to have a hearing. This especially makes sense here because current review times in rule for these licenses already provide shorter periods if a hearing is not held. Department experience concerning complex applications is that not applications impose the same demand on Department resources. Some applications require several times the Department's resources as do others. For example, some wastewater APP applications may contain licensing requests for 2 or 3 discharges rather than just one; a mine APP application may have 20 permitable discharges.

Applications in process at the time this rule goes into effect will not be subject to Article 7.1 licensing time-frames in accordance with R18-1-502(A)(12). Existing sources subject to the APP program were split into several groups with each group being “called” each year to submit applications. The last “call” is scheduled for calendar year 1999 with about 40 sources subject to the call. The Department is considering subjecting the 1999 call to this rule because the rule is expected to go into effect on January 1, 1999. An alternative approach would be to exclude them under the “compliance activity by licensees” exclusion at R18-1-502(B)(9). In addition, the Department expects to offer opt-in agreements in accordance with R18-1-513 for applications still in process as of that date. Department experience has been that applications for these existing sources usually take more time than applications for new sources. For these reasons, the Department is considering establishing a separate group of AP licenses only for the 1999 call plus opt-ins. If so, the Department believes the time-frames for this group should be set to match the times set for the “complex” categories below. The Department solicits comment on all aspects of this approach.

Group I: Wastewater treatment facility individual discharging aquifer protection (AP) licenses. These AP licenses are described as a separate group because the Department reviews them within the APP wastewater unit and this group of licenses is described separately at R18-14-101 through R18-14-108. Department experience with wastewater AP licenses for the last fiscal year (1996-97) is that it reached licensing decisions on 33 applications with 131 applications pending at the end of the year. This includes with and without recharge components and small best available demonstrated technology (BADCT) facility (Groups I, II and III) wastewater AP licenses.

(1) Standard wastewater treatment facility AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. No application review times are specified in statute but certain review times are in rule at R18-9-107: 30 calendar days for administrative completeness, an additional 20 calendar days of administrative completeness if the Department issues a notice that the application is incomplete, 90 calendar days after administrative completeness to issue a proposed permit or denial with time suspended if the Department issues a notice of technical deficiencies, 30 calendar days after the decision to publish public notice of the decision, 30 additional calendar days for a public comment period, 45 calendar days after

Arizona Administrative Register
Notices of Final Rulemaking

publication to decide whether to hold a public hearing and, if no hearing is held, 30 calendar days after the close of the comment period to make a final licensing decision, except that the Department may extend the period an additional 90 calendar days if it determines that additional information is needed to make the decision. Absent suspensions, this represents 50 calendar days for administrative completeness and 270 calendar days for substantive review. This converts to 35 business days for administrative completeness review and 186 business days for substantive review. These times appear as the Article 7.1 time-frames in Table 10.

(2) Standard wastewater treatment facility AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Certain review times are in rule at R18-9-107: Same times as the preceding license except that if the Department decides to hold a public hearing, 75 calendar days after publication to begin the hearing, 7 calendar days after the close of the hearing to close the hearing record, 45 calendar days after the close of the hearing record to make a final licensing decision, except that the Department may extend the period an additional 90 calendar days if it determines that additional information is needed to make the decision. Absent suspensions, this represents 50 calendar days for administrative completeness and 270 calendar days for substantive review. This converts to 35 business days for administrative completeness review and 232 business days for substantive review if the public hearing lasts only 1 day. These times appear as the Article 7.1 time-frames in Table 10.

(3) Complex wastewater treatment facility AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. In addition to the times described in the standard category of this license (category 1 above), a complex application may take an additional 2 months of Department resources to determine a proposed permit and may take an additional 1 month to respond to public comments. These additional 3 months convert to 63 business days. This increases the Article 7.1 time-frames shown on Table 10 to 35 business days for administrative completeness review and 249 business days for substantive review.

(4) Complex wastewater treatment facility AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. In addition to the times described in the standard category of this license (category 2 above), a complex application may take an additional 1 month to hold the hearing if adjournments are required and an additional 2 months to respond to public comments. These additional 3 months convert to 63 business days. This increases the Article 7.1 time-frames shown on Table 10 to 35 business days for administrative completeness review and 295 business days for substantive review.

(5) Standard wastewater treatment facility AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 1 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(6) Standard wastewater treatment facility AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those

Arizona Administrative Register
Notices of Final Rulemaking

fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit are required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 2 above, Table 10 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(7) Complex wastewater treatment facility AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 3 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(8) Complex wastewater treatment facility AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 4 above, Table 10 shows 37 business days for administrative completeness review and 295 business days for substantive review.

(9) Standard wastewater treatment facility AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 1 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(10) Complex wastewater treatment facility AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 3 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(11) Wastewater treatment facility AP permit transfer approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-121(E) and require a Department-generated application form and an initial fee. The fee is identified at R18-14-101 through R18-14-108. No application review times are specified in statute or rule. Table 10 shows administrative completeness review as 21 business days (approximately 1 month) and substantive review as 32 business days (approximately 45 calendar days).

(12) Wastewater treatment facility AP closure plan approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-116 and require a Department-generated application form, site inspection and an initial fee. The fee is iden-

Arizona Administrative Register
Notices of Final Rulemaking

tified at R18-14-101 through R18-14-108. Certain application review times are specified in rule. The Department must approve or reject a closure plan within 60 calendar days after receipt of a complete application submission. No administrative completeness review is identified. Table 10 shows administrative completeness review as 21 business days (approximately 1 month) and substantive review as 41 business days (approximately 60 calendar days).

(13) Standard wastewater treatment facility AP post-closure plan approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-9-116 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Certain application review times are specified in rule. The Department must approve or reject a post-closure plan within 60 calendar days after receipt of a complete application submission. No administrative completeness review is identified. Table 10 shows administrative completeness review as 21 business days (approximately 1 month) and substantive review as 41 business days (approximately 60 calendar days).

(14) Complex wastewater treatment facility AP post-closure plan approval. Table 10 shows this category based on category 13 above with substantive review increased from 41 business days to 125 business days. This represents approximately 6 months for the substantive review time-frame.

(15) Wastewater treatment facility AP voluntary environmental mitigation use restriction (VEMUR) approval. This license is authorized and required by A.R.S. § 49-152(B) and governed by A.A.C. R18-7-207. This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-7-207 and require a Department-generated application form. No application review times are specified in statute or rule. A.R.S. § 49-152(C)(2) does require that the Department make a licensing decision on VEMUR cancellation request within 60 calendar days. That same time is used here but increased to 62 business days (approximately 3 months) to include activities not required in a cancellation request such as review of zoning. Table 10 shows these 62 business days divided between the administrative completeness review time-frame (15 business days or approximately 3 weeks) and the substantive review time-frame (the remainder).

(16) Wastewater treatment facility AP VEMUR cancellation approval. This license is authorized and required by A.R.S. § 49-152(C) and governed by R18-7-207. This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in at R18-7-207 and require a Department-generated application for. A.R.S. § 49-152(C)(2) requires the Department to make a licensing decision within 60 calendar days after the date of application. No other review times are specified. The 60 calendar days converts to approximately 42 business days. Table 10 shows these 42 business days divided into 15 business days for the administrative completeness review time-frame (approximately 3 weeks) and 27 business days for the substantive review time-frame (the remainder).

Group II: Wastewater treatment facility (with recharge component) individual aquifer protection (AP) licenses.

(17) Standard wastewater treatment facility (with recharge component) AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 1 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(18) Standard wastewater treatment facility (with recharge component) AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-

Arizona Administrative Register
Notices of Final Rulemaking

14-101 through R18-14-108. Following the analysis and discussion under license category 2 above, Table 10 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(19) Complex wastewater treatment facility (with recharge component) AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 3 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(20) Complex wastewater treatment facility (with recharge component) AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 4 above, Table 10 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(21) Standard wastewater treatment facility (with recharge component) AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 5 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(22) Standard wastewater treatment facility (with recharge component) AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 6 above, Table 10 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(23) Complex wastewater treatment facility (with recharge component) AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 7 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(24) Complex wastewater treatment facility (with recharge component) AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 8 above,

Arizona Administrative Register
Notices of Final Rulemaking

Table 10 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(25) Standard wastewater treatment facility (with recharge component) AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 9 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(26) Complex wastewater treatment facility (with recharge component) AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 10 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

Group III: Small BADCT wastewater treatment facility (with designs less than 250,000 gpd) individual discharging aquifer protection (AP) licenses. The Department offers these categories with reduced review time for small wastewater treatment facilities with designs less than 250,000 gpd based on best available demonstrated control technology (BADCT).

(27) Standard small BADCT wastewater treatment facility AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 1 above and taking into account that the Department requires 60 less calendar days (41 less business days) to complete the substantive review on the small facilities, Table 10 shows 35 business days for administrative completeness review and 145 business days for substantive review.

(28) Standard small BADCT wastewater treatment facility AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 2 above and taking into account that the Department requires 60 less calendar days (41 less business days) to complete the substantive review on the small facilities, Table 10 shows 35 business days for administrative completeness review and 191 business days for substantive review.

(29) Complex small BADCT wastewater treatment facility AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 3 above and taking into account that the Department requires 60 less calendar days (41 less business days) to complete the substantive review on the small facilities, Table 10 shows 35 business days for administrative completeness review and 208 business days for substantive review.

(30) Complex small BADCT wastewater treatment facility AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 4 above and taking into account that the Department requires 60 less calendar days (41 less business days) to complete the substantive review on the small facilities, Table 10 shows 35 business days for administrative completeness review and 254 business days for substantive review.

(31) Standard small BADCT wastewater treatment facility AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 5 above and taking into account that the Department requires 60 less calendar days (41 less business days) to complete the substantive review on the small facilities, Table 10 shows 35 business days for administrative completeness review and 145 business days for substantive review.

(32) Standard small BADCT wastewater treatment facility AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 6 above and taking into account that the Department requires 60 less calendar days (41 less business days) to complete the substantive review on the small facilities, Table 10 shows 35 business days for administrative completeness review and 191 business days for substantive review.

(33) Complex small BADCT wastewater treatment facility AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 7 above and taking into account that the Department requires 60 less calendar days (41 less business days) to complete the substantive review on the small facilities, Table 10 shows 35 business days for administrative completeness review and 208 business days for substantive review.

(34) Complex small BADCT wastewater treatment facility AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 8 above and taking into account that the Department requires 60 less calendar days (41 less business days) to complete the substantive review on the small facilities, Table 10 shows 35 business days for administrative completeness review and 254 business days for substantive review.

(35) Standard small BADCT wastewater treatment facility AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This

Arizona Administrative Register
Notices of Final Rulemaking

license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 9 above and taking into account that the Department requires 60 less calendar days (41 less business days) to complete the substantive review on the small facilities, Table 10 shows 35 business days for administrative completeness review and 145 business days for substantive review.

(36) Complex small BADCT wastewater treatment facility AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 10 above and taking into account that the Department requires 60 less calendar days (41 less business days) to complete the substantive review on the small facilities, Table 10 shows 35 business days for administrative completeness review and 208 business days for substantive review.

(37) Small BADCT wastewater treatment facility AP permit transfer approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-121(E) and require a Department-generated application form and an initial fee. Following the analysis and discussion under license category 11 above, Table 10 shows 21 business days for administrative completeness review and 32 business days for substantive review.

(38) Small BADCT wastewater treatment facility AP closure plan approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-116 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 12 above, Table 10 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(39) Standard small BADCT wastewater treatment facility AP post-closure plan approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-116 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 13 above, Table 10 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(40) Complex small BADCT wastewater treatment facility AP post-closure plan approval. Table 10 shows this category with substantive review increased from 41 business days to 125 business days. This represents approximately 6 months for the substantive review time-frame.

(41) Small BADCT wastewater treatment facility AP VEMUR approval. This license is authorized and required by A.R.S. § 49-152(B) and governed by A.A.C. R18-7-207. This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required. Application components are identified at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under license category 15 above, Table 10 shows 15 business days for administrative completeness review and 47 business days for substantive review.

(42) Small BADCT wastewater treatment facility AP VEMUR cancellation approval. This license is authorized and required by A.R.S. § 49-152(C) and governed by R18-7-207. This license is not subject to sanctions because the

Arizona Administrative Register
Notices of Final Rulemaking

Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required. Application components are identified at R18-7-206(B) and require a Department-generated application form. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 16 above, Table 10 shows 15 business days for administrative completeness review and 27 business days for substantive review.

Group IV: Industrial facility individual discharging aquifer protection (AP) licenses. These AP licenses are described as a separate group because the Department reviews them within the APP industrial unit and this group of licenses is described separately at A.A.C. R18-14-101 through R18-14-108. Discussion of the AP licenses listed under Group I (wastewater treatment facility individual discharging aquifer protection licenses) above applies here as well. Department experience with industrial AP licenses for the last fiscal year (1996-97) is that it reached licensing decisions on 21 applications with 106 applications pending at the end of the year.

(43) Standard industrial facility AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 1 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(44) Standard industrial facility AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 2 above, Table 10 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(45) Complex industrial facility AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 3 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(46) Complex industrial facility AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 4 above, Table 10 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(47) Standard industrial facility AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 5 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

Arizona Administrative Register
Notices of Final Rulemaking

(48) Standard industrial facility AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 6 above, Table 10 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(49) Complex industrial facility AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 7 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(50) Complex industrial facility AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 8 above, Table 10 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(51) Standard industrial facility AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 9 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(52) Complex industrial facility AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 10 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(53) Industrial facility AP permit transfer approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-121(E) and require a Department-generated application form and an initial fee. Following the analysis and discussion under license category 11 above, Table 10 shows 21 business days for administrative completeness review and 32 business days for substantive review.

(54) Industrial facility AP closure plan approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the

application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-116 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 12 above, Table 10 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(55) Standard industrial facility AP post-closure plan approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-116 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 13 above, Table 10 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(56) Complex industrial facility AP post-closure plan approval. Table 10 shows this category with substantive review increased from 41 business days to 125 business days. This represents approximately 6 months for the substantive review time-frame.

(57) Industrial facility AP voluntary environmental mitigation use restriction (VEMUR) request approval. This license is authorized and required by A.R.S. § 49-152(B) and governed by A.A.C. R18-7-207. This license is not subject to sanctions because the Department collects fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required. Application components are identified at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under license category 15 above, Table 10 shows 15 business days for administrative completeness review and 47 business days for substantive review.

(58) Industrial facility AP VEMUR cancellation approval. This license is authorized and required by A.R.S. § 49-152(C) and governed by A.A.C. R18-7-207. This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required. Application components are identified at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under license category 16 above, Table 10 shows 15 business days for administrative completeness review and 27 business days for substantive review.

Group V: Mine facility individual discharging aquifer protection (AP) licenses. These AP licenses are described as a separate group because the Department reviews them within the APP wastewater unit and this group of licenses is described separately at A.A.C. R18-9-101 through R18-9-108. Discussion of the AP licenses listed under Group I (wastewater treatment facility individual discharging aquifer protection licenses) above applies here as well. Department experience with mine AP licenses for the last fiscal year (1996-97) is that it reached licensing decisions on 9 applications with 38 applications pending at the end of the year.

(59) Standard mine facility AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 1 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(60) Standard mine facility AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 2 above, Table 10 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(61) Complex mine facility AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to

Arizona Administrative Register
Notices of Final Rulemaking

sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 3 above, Table 10 shows 37 business days for administrative completeness review and 249 business days for substantive review.

(62) Complex mine facility AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 4 above, Table 10 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(63) Standard mine facility AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 5 above, Table 5 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(64) Standard mine facility AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 6 above, Table 10 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(65) Complex mine facility AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 7 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(66) Complex mine facility AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 8 above, Table 10 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(67) Standard mine facility AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform

Arizona Administrative Register
Notices of Final Rulemaking

application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 9 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(68) Complex mine facility AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 10 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(69) Mine facility AP permit transfer approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-121(E) and require a Department-generated application form and an initial fee. Following the analysis and discussion under license category 11 above, Table 10 shows 21 business days for administrative completeness review and 32 business days for substantive review.

(70) Mine facility AP closure plan approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-116 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 12 above, Table 10 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(71) Standard mine facility AP post-closure plan approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-116 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 13 above, Table 10 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(72) Complex mine facility AP post-closure plan approval. Table 10 shows this category with substantive review increased from 41 business days to 125 business days. This represents approximately 6 months for the substantive review time-frame.

(73) Mine facility AP voluntary environmental mitigation use restriction (VEMUR) approval. This license is authorized and required by A.R.S. § 49-152(B) and governed by A.A.C. R18-7-207. This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required. Application components are identified at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under license category 15 above, Table 10 shows 15 business days for administrative completeness review and 47 business days for substantive review.

(74) Mine facility AP VEMUR cancellation approval. This license is authorized and required by A.R.S. § 49-152(C) and governed by R18-7-207. This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required. Application components are identified at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under license category 16 above, Table 10 shows 15 business days for administrative completeness review and 27 business days for substantive review.

Group VI: Other discharging facility individual discharging AP licenses. These AP licenses are described as a separate group because this group of licenses is described separately at A.A.C. R18-14-101 through R18-14-108. Dis-

Arizona Administrative Register
Notices of Final Rulemaking

cussion of the AP licenses listed under Group I (wastewater treatment facility individual discharging aquifer protection (AP) licenses) above applies here as well.

(75) Standard other discharging facility AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 1 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(76) Standard other discharging facility AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 2 above, Table 10 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(77) Complex other discharging facility AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 3 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(78) Complex other discharging facility AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 4 above, Table 10 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(79) Standard other discharging facility AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 5 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(80) Standard other discharging facility AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 6 above, Table 10 shows 35 business days for administrative completeness review and 232 business days for substantive review.

Arizona Administrative Register
Notices of Final Rulemaking

(81) Complex other discharging facility AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 7 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(82) Complex other discharging facility AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 8 above, Table 10 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(83) Standard other discharging facility AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 9 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(84) Complex other discharging facility AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 10 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(85) Other discharging facility AP permit transfer approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-121(E) and require a Department-generated application form and an initial fee. Following the analysis and discussion under license category 11 above, Table 10 shows 21 business days for administrative completeness review and 32 business days for substantive review.

(86) Other discharging facility AP closure plan approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-116 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 12 above, Table 10 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(87) Standard other discharging facility AP post-closure plan approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application compo-

Arizona Administrative Register
Notices of Final Rulemaking

nents are identified in rule at R18-9-116 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 13 above, Table 10 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(88) Complex other discharging facility AP post-closure plan approval. Table 10 shows this category with substantive review increased from 41 business days to 125 business days. This represents approximately 6 months for the substantive review time-frame.

(89) Other discharging facility AP voluntary environmental mitigation use restriction (VEMUR) approval. This license is authorized and required by A.R.S. § 49-152(B) and governed by A.A.C. R18-7-207. This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required. Application components are identified in statute at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under license category 15 above, Table 10 shows 15 business days for administrative completeness review and 47 business days for substantive review.

(90) Other discharging facility AP VEMUR cancellation approval. This license is authorized and required by A.R.S. § 49-152(C) and governed by R18-7-207. This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required. Application components are identified at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under license category 16 above, Table 10 shows 15 business days for administrative completeness review and 27 business days for substantive review.

Group VII: Reclaimed wastewater reuse licenses. These wastewater reuse licenses are described as a separate group because this group of licenses is described separately at A.A.C. R18-9-701 through R18-9-707. Discussion of the AP licenses listed under Group I (wastewater treatment facility individual discharging aquifer protection licenses) above applies here as well.

(91) Standard reclaimed wastewater reuse new permit with no public hearing. This license is authorized and required by A.R.S. § 49-250(B) and governed by A.A.C. R18-9-701 through R18-9-707. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-705 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 1 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(92) Standard reclaimed wastewater reuse new permit with a public hearing. This license is authorized and required by A.R.S. § 49-250(B) and governed by A.A.C. R18-9-701 through R18-9-707. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-705 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 2 above, Table 10 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(93) Complex reclaimed wastewater reuse new permit with no public hearing. This license is authorized and required by A.R.S. § 49-250(B) and governed by A.A.C. R18-9-701 through R18-9-707. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-705 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 3 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(94) Complex reclaimed wastewater reuse new permit with a public hearing. This license is authorized and required by A.R.S. § 49-250(B) and governed by A.A.C. R18-9-701 through R18-9-707. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive

review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-705 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 4 above, Table 10 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(95) Standard reclaimed wastewater reuse major modification permit with no public hearing. This license is authorized and required by A.R.S. § 49-250(B) and governed by A.A.C. R18-9-701 through R18-9-707. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-705 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 5 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(96) Standard reclaimed wastewater reuse major modification permit with a public hearing. This license is authorized and required by A.R.S. § 49-250(B) and governed by A.A.C. R18-9-701 through R18-9-707. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-705 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 6 above, Table 10 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(97) Complex reclaimed wastewater reuse major modification permit with no public hearing. This license is authorized and required by A.R.S. § 49-250(B) and governed by A.A.C. R18-9-701 through R18-9-707. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-705 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 7 above, Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(98) Complex reclaimed wastewater reuse major modification permit with a public hearing. This license is authorized and required by A.R.S. § 49-250(B) and governed by A.A.C. R18-9-701 through R18-9-707. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-705 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 8 above, Table 10 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(99) Standard reclaimed wastewater reuse other modification permit. This license is authorized and required by A.R.S. § 49-250(B) and governed by A.A.C. R18-9-701 through R18-9-707. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-705 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 9 above, Table 10 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(100) Complex reclaimed wastewater reuse other modification permit. This license is authorized and required by A.R.S. § 49-250(B) and governed by A.A.C. R18-9-701 through R18-9-707. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-705 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under license category 10 above,

Arizona Administrative Register
Notices of Final Rulemaking

Table 10 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(101) Reclaimed wastewater reuse permit transfer approval. This license is authorized and required by A.R.S. § 49-250(B) and governed by A.A.C. R18-9-701 through R18-9-707. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-121(E) and require a Department-generated application form and an initial fee. Following the analysis and discussion under license category 11 above, Table 10 shows 21 business days for administrative completeness review and 32 business days for substantive review.

Group VIII: Noneffluent groundwater recharge licenses.

(102) Standard noneffluent groundwater recharge approval. This license is authorized and required by A.R.S. § 45-811.01(C)(5). This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at A.R.S. § 45-811.01(C)(5). Table 10 shows 35 business days for administrative completeness review and 70 business days for substantive review.

(103) Complex noneffluent groundwater recharge approval. This license is authorized and required by A.R.S. § 45-811.01(C)(5). This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at A.R.S. § 45-811.01(C)(5). Table 10 shows 35 business days for administrative completeness review and 112 business days for substantive review.

(104) Noneffluent groundwater recharge pilot project time extension approval. This license is authorized and required by A.R.S. § 49-241 and governed by A.A.C. R18-9-127(B). This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-9-127(B). Table 10 shows 10 business days for administrative completeness review and 10 business days for substantive review.

Group IX: Facility registration licenses.

(105) Dry well registration. This license is authorized and required by A.R.S. § 49-332. This license is not subject to sanctions because the Department does not conduct substantive review of applications. This is a Model C license because application components are uniform and the Department does not conduct substantive review of the application components. Application components include a Department-generated application form and an initial fee. The fee is identified at A.A.C. R18-14-103(B)(1). Table 10 shows 21 business days (approximately 1 month) for administrative completeness review and 0 business days for substantive review.

(106) Significant industrial user registration. This license is authorized and required by A.R.S. § 49-209. This license is not subject to sanctions because the Department does not conduct substantive review of applications. This is a Model C license because application components are uniform and the Department does not conduct substantive review of the application components. Application components include a Department-generated application form and an initial fee. The fee is identified at A.A.C. R18-14-103(B)(2). Table 10 shows 21 business days (approximately 1 month) for administrative completeness review and 0 business days for substantive review.

Group X: Pesticide contamination prevention licenses.

(107) New pesticide approval. This license is authorized and required by A.R.S. § 49-302(F) and governed by A.A.C. R18-6-102(B). This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-6-102 and R18-6-106. Table 10 shows 62 business days (approximately 3 months) for administrative completeness review and 124 business days (approximately 6 months) for substantive review.

(108) Active ingredient or pesticide criticality determination. This license is authorized and required by A.R.S. § 49-302(F) and governed by A.A.C. R18-6-102(B). This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identi-

Arizona Administrative Register
Notices of Final Rulemaking

fied at R18-6-102. Table 10 shows 21 business days (approximately 1 month) for administrative completeness review and 41 business days (approximately 2 months) for substantive review.

(109) Pesticide addition to or deletion from groundwater protection list approval. This license is authorized and required by A.R.S. § 49-305(A) and governed by A.A.C. R18-6-105(D). This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at R18-6-105. Table 10 shows 21 business days (approximately 1 month) for administrative completeness review and 41 business days (approximately 2 months) for substantive review.

b. Licenses not subject to Article 7.1 licensing time-frame requirements.

The Department has determined that the following licenses are not subject to Article 7.1 time-frame requirements for the reasons given below.

(1) AP permit applicability determination. This determination is authorized at A.R.S. § 49-241 through 49-251 and governed by A.A.C. R18-9-106. This determination is not subject to time-frame requirements because it may not actually involve the Department issuing a license to a prospective licensee. A determination by itself that an applicant, in fact, requires or does not require an AP permit probably will not change the applicant's essential rights, duties and privileges under Arizona law.

(2) Transfer of owner or operator of a facility notice. This notice is required under A.A.C. R18-9-103(F). This license is a model B license because notice is required from the applicant but the Department does not actually issue the license which means the license is not subject to time-frame requirements.

(3) Temporary cessation notice. This notice is required under A.A.C. R18-9-104(A). This license is a model B license because notice is required from the applicant but the Department does not actually issue the license which means the license is not subject to time-frame requirements.

(4) Intent to cease operations notice. This notice is required under A.A.C. R18-9-104(C). This license is a model B license because notice is required from the applicant but the Department does not actually issue the license which means the license is not subject to time-frame requirements.

11) Table 11: Surface Water Licenses

The Department issues the following licenses which are subject to licensing time-frame requirements as part of the state's surface water quality program in accordance with A.R.S. § 49-202 and administered by the Department's Surface Water Quality Section of the Water Quality Division. Licensing under these categories is subject to time-frame requirements. The numbered license categories appear on Table 11 with the same corresponding numbers in parentheses. The arrangement of licenses categories on Table 11 is as follows:

Clean Water Act (CWA) § 401 certification licenses.

CWA § 401 state certification of a proposed CWA § 402 NPDES permit (1).

CWA § 401 state certification of a proposed CWA § 404 permit (2).

CWA § 401 state certification of a proposed nonpoint source activity for a federal permit (3).

(1) CWA § 401 state certification of a proposed CWA § 402 NPDES permit. This license is authorized and required by A.R.S. § 49-202. This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at A.R.S. § 49-202 and require a Department-generated application form, public notice of the underlying proposed permit, and a U.S. Army Corp of Engineers notice of proposed decision. Table 11 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 42 business days (approximately 2 months) for the substantive review time-frame.

(2) CWA § 401 state certification of a proposed CWA § 404 permit. This license is authorized and required by A.R.S. § 49-202. This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at A.R.S. § 49-202 and 33 U.S.C. § 1341(a) and require a Department-generated application form, public notice of the underlying proposed permit, and a U.S. Army Corp of Engineers notice of proposed decision. Table 11 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 209 business days (approximately 2 months) for the substantive review time-frame.

(3) CWA § 401 state certification of a proposed nonpoint source activity for a federal permit. This license is authorized and required by A.R.S. § 49-202. This license is not subject to sanctions because the Department does not

Arizona Administrative Register
Notices of Final Rulemaking

collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified at A.R.S. § 49-202 and require a Department-generated application form. Table 11 shows 5 business days for the administrative completeness review time-frame and 32 business days (approximately 45 calendar days) for the substantive review time-frame.

12) Table 12: Solid Waste Licenses

a. Licenses subject to Article 7.1 licensing time-frame requirements.

The Department issues the following licenses as part of the state's solid waste management program in accordance with A.R.S. §§ 49-701 through 49-881 and administered by the Department's Solid Waste Section of the Waste Programs Division. The following numbered license categories appear on Table 12 with the same corresponding numbers in parentheses. The arrangement of licenses categories on Table 12 is as follows.

Group I: Solid waste variance licenses.

Rule or standard variance request approval (1).

Group II: Land application of biosolids licenses.

Biosolid applicator registration request acknowledgment (2).

Group III: Nonlandfill solid waste facility individual discharging aquifer protection (AP) licenses.

Standard nonlandfill solid waste discharging facility AP new permit without/with a public hearing (3-4).

Complex nonlandfill solid waste discharging facility AP new permit without/with a public hearing (5-6).

Standard nonlandfill solid waste discharging facility AP major modification permit without/with a public hearing (7-8).

Complex nonlandfill solid waste discharging facility AP major modification permit without/with a public hearing (9-10).

Standard nonlandfill solid waste discharging facility AP other modification permit (11).

Complex nonlandfill solid waste discharging facility AP other modification permit (12).

Nonlandfill solid waste discharging facility AP permit transfer approval (13).

Nonlandfill solid waste discharging facility AP closure plan approval (14).

Standard/complex nonlandfill solid waste discharging facility AP post-closure plan approval (15-16).

Nonlandfill solid waste voluntary environmental mitigation use restriction (VEMUR) approval (17).

Nonlandfill solid waste VEMUR cancellation approval (18).

Group I: Solid waste variance licenses.

(1) Rule or standard variance request approval. This license is authorized and required by A.R.S. §§ 49-763.01. This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified under A.R.S. § 49-763.01 and require a Department-generated application form. The application review time is identified in statute as 90 calendar days. Table 12 converts this to 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 41 business days (approximately 60 calendar days) for the substantive review time-frame.

Group II. Land application of biosolids licenses.

(2) Biosolid applicator registration request acknowledgment. This license is governed by A.A.C. R18-13-1504(A). This license is not subject to sanctions because the Department does not collect fees from applicants for its issuance. This is a Model C license because substantive review of application components is not required and a public hearing is not required. Application components are identified in rule at R18-13-1504(C) and require a Department-generated application form. The application review time is identified at R18-12-1504(E) as 15 business days. Table 12 shows this as 15 business days for administrative completeness review and 0 business days for substantive review.

Group III: Nonlandfill solid waste facility individual discharging aquifer protection (AP) licenses. These AP licenses are described here as a separate group from those in Table 10 above because they are administered by the solid waste program. Discussion of the AP licenses listed under Group I (wastewater facilities) in Table 10 above, however, applies here as well.

(3) Standard nonlandfill solid waste discharging facility AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license

because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under Table 10, license category 1 above, Table 12 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(4) Standard nonlandfill solid waste discharging facility AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under Table 10, license category 2 above, Table 12 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(5) Complex nonlandfill solid waste discharging facility AP new permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under Table 10, license category 3 above, Table 12 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(6) Complex nonlandfill solid waste discharging facility AP new permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under Table 10, license category 4 above, Table 12 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(7) Standard nonlandfill solid waste discharging facility AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under Table 10, license category 5 above, Table 12 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(8) Standard nonlandfill solid waste discharging facility AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under Table 10, license category 6 above, Table 12 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(9) Complex nonlandfill solid waste discharging facility AP major modification permit with no public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-

Arizona Administrative Register
Notices of Final Rulemaking

14-108. Following the analysis and discussion under Table 10, license category 7 above, Table 12 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(10) Complex nonlandfill solid waste discharging facility AP major modification permit with a public hearing. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model F license because substantive review of non-uniform application components and a public hearing after issuance of a proposed permit is required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under Table 10, license category 8 above, Table 12 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(11) Standard nonlandfill solid waste discharging facility AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under Table 10, license category 9 above, Table 12 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(12) Complex nonlandfill solid waste discharging facility AP other modification permit. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-107 through R18-9-109 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under Table 10, license category 10 above, Table 12 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(13) Nonlandfill solid waste discharging facility AP permit transfer approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-121(E) and require a Department-generated application form and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under Table 10, license category 11 above, Table 12 shows 21 business days for administrative completeness review and 32 business days for substantive review.

(14) Nonlandfill solid waste discharging facility AP closure plan approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-116 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under Table 10, license category 12 above, Table 12 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(15) Standard nonlandfill solid waste discharging facility AP post-closure plan approval. This license is authorized and required by A.R.S. §§ 49-241 through 49-251 and governed by A.A.C. R18-9-101 through R18-9-130. This license is subject to sanctions because the Department collects fees from applicants for its issuance, those fees are deposited into a Department fund and the application requires substantive review. This is a Model E license because substantive review of non-uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-9-116 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-14-101 through R18-14-108. Following the analysis and discussion under Table 10, license category 13 above, Table 12 shows 21 business days for administrative completeness review and 41 business days for substantive review.