

(16) Complex nonlandfill solid waste discharging facility AP post-closure plan approval. Table 12 shows this category based on category 15 above but with substantive review increased from 41 business days to 125 business days. This represents approximately 6 months for the substantive review time-frame.

(17) Nonlandfill solid waste 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. Following the analysis and discussion under Table 10, license category 15 above, Table 12 shows 15 business days for administrative completeness review and 47 business days for substantive review.

(18) Nonlandfill solid waste voluntary environmental mitigation use restriction (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 at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under Table 10, license category 16 above, Table 12 shows 15 business days for administrative completeness review and 27 business days 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) Solid waste definition exemption. This license is authorized and identified at A.R.S. § 49-701.01. This license accrues by notifying the Director of some proposed activity. In other words, it is a notice (Model B) license that does not require the Department to issue the license. Therefore, this license is not subject to Article 7.1 requirements.

(2) Septage hauler license. This license is authorized and identified at A.R.S. § 49-104(B)(14) and governed by A.A.C. R18-8-613. 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 R18-8-614. Several counties act as the Department's agent in accepting applications for this license and perform a certain amount of administrative review. Some counties charge a fee; some do not. When submitted by counties, review time begins only upon submission. The Department has determined that this license is not subject to Article 7.1 requirements because it is issued within 7 days after receipt of the initial application in accordance with A.R.S. § 41-1073(D).

13) Table 13: Special 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 special waste management program in accordance with A.R.S. §§ 49-701 through 49-881 and 49-851 through 49-868 and administered by the Department's Solid Waste Section of the Waste Programs Division. The following numbered license categories appear on Table 13 with the same corresponding numbers in parentheses. The arrangement of licenses categories on Table 13 is as follows.

Group I: Special waste licenses.

Waste from shredding motor vehicles alternative sampling plan approval (1).
Special waste temporary treatment facility approval (2).

Group III: Special waste facility plan licenses.

Existing special waste facility plan approval (3).
New special waste facility plan approval without/with a public hearing (4-5).
New special waste facility operation temporary authorization (6).

Group III: Special waste facility amendment licenses.

Special waste facility plan type III substantial change (7).
Special waste facility plan type IV substantial change without/with a public hearing (8-9).

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

Standard special waste discharging facility AP new permit without/with a public hearing (10-11).
Complex special waste discharging facility AP new permit without/with a public hearing (12-13)
Standard special waste discharging facility AP major modification permit without/with a public hearing (14-15).
Complex special waste discharging facility AP major modification permit without/with a public hearing (16-17)
Standard/complex special waste discharging facility AP other modification permit (18-19)
Special waste discharging facility AP permit transfer approval (20).

Arizona Administrative Register
Notices of Final Rulemaking

Special waste discharging facility AP closure plan approval (21)

Standard/complex special waste discharging facility AP post-closure plan approval (22-23).

Special waste discharging facility AP voluntary environmental mitigation use restriction (VEMUR) approval (24).

Special waste discharging facility AP VEMUR cancellation approval (25).

Group I: Special waste licenses.

(1) Waste from shredding motor vehicles alternative sampling plan approval. This license is authorized and identified at A.R.S. §§ 49-762 and 49-857 and is governed by A.A.C. R18-8-307(A). 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 rule at R18-8-307(A). Table 13 shows 5 business days (approximately 7 calendar days) for the administrative completeness review time-frame and 5 business days for the substantive review time-frame.

(2) Special waste temporary treatment facility approval. This license is authorized and identified at A.R.S. §§ 49-762 and 49-857 and is governed by A.A.C. R18-8-1610. 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 rule at R18-8-1607 and R18-13-403. Table 13 shows 32 business days (approximately 45 calendar days) for the administrative completeness review time-frame and 62 business days (approximately 90 calendar days) for the substantive review time-frame.

Group II: Special waste facility plan licenses. The Department's solid waste section administers this group of licenses governing special waste facilities that handle auto shredder fluff or petroleum contaminated soil. The application components for the auto shredder fluff licenses are identified at R18-8-307. The application components for the petroleum contaminated soil licenses are identified at R18-8-1601 through R18-8-1614.

(3) Existing special waste facility plan approval. This license is authorized and identified at A.R.S. § 49-762.03(A)(2). 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 R18-8-307 and R18-8-1601 through R18-8-1614 and include a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-13-701 through R18-13-703. A.R.S. § 49-762.04 identifies certain application review times: 30 calendar days for administrative completeness review plus another 15 calendar days if the Department issues a notice of administrative deficiencies and a licensing decision within 180 calendar days after administrative completeness. Table 13 shows 32 business days (approximately 45 calendar days) for the administrative completeness review time-frame and 124 business days (approximately 180 calendar days) for the substantive review time-frame.

(4) New special waste facility plan approval with no public hearing. This license is authorized and identified at A.R.S. § 49-762.03(A)(1). 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 R18-8-307 and R18-8-1601 through R18-8-1614 and include a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-13-701 through R18-13-703. A.R.S. § 49-762.04 identifies certain application review times: 30 calendar days for administrative completeness review plus another 15 calendar days if the Department issues a notice of administrative deficiencies and a licensing decision within 90 calendar days after administrative completeness. Table 13 shows 32 business days (approximately 45 calendar days) for the administrative completeness review time-frame and 62 business days (approximately 90 calendar days) for the substantive review time-frame.

(5) New special waste facility plan approval with a public hearing. This license is authorized and identified at A.R.S. § 49-762.03(A)(1). 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 is required. Application components are identified at R18-8-307 and R18-8-1601 through R18-8-1614 and include a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-13-701 through R18-13-703. A.R.S. § 49-762.04 identifies certain application review times: 30 calendar days for administrative completeness review plus another 15 calendar days if the Department issues a notice of administrative deficiencies, a proposed licensing decision within 90 calendar days after administrative completeness, the holding of a public hearing within 45 calendar days after the proposed decision, issuance of a notice of technical deficiencies, if issued, within 30 calendar days after the hearing, and issuance of the final decision within 15 calendar days after receipt of applicant's

response to the deficiency notice. Table 13 shows 32 business days (approximately 45 calendar days) for the administrative completeness review time-frame and 124 business days (approximately 180 calendar days) for the substantive review time-frame. This represents the calendar times in statute assuming 1 day for the public hearing and 1 day for the applicant to respond to the deficiency notice.

(6) New special waste facility operation temporary authorization. This license is authorized and identified at A.R.S. § 49-762.03. This license is not subject to sanctions because no application review fees are required. This is a Model E license because substantive review of non-uniform application components and a public hearing is not required. Application components are identified in statute at A.R.S. § 49-762.03(C) and require site inspection. Table 13 shows 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 III: Special waste facility amendment licenses. The Department's solid waste section administers this group of licenses governing special waste facilities that handle auto shredder fluff or petroleum contaminated soil. The application components for the auto shredder fluff licenses are identified at R18-8-307. The application components for the petroleum contaminated soil licenses are identified at R18-8-1601 through R18-8-1614

(7) Special waste facility plan type III substantial change. This license is authorized and identified at A.R.S. § 49-762.06(B). 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 and no public hearing is required. Application components are identified at R18-8-307 and R18-8-1601 through R18-8-1614 and include a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-13-701 through R18-13-703. Table 13 shows 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) Special waste facility plan type IV substantial change with no public hearing. This license is authorized and identified at A.R.S. § 49-762.06(B). 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 R18-8-307 and R18-8-1601 through R18-8-1614 and include a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-13-701 through R18-13-703. Table 13 shows 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.

(9) Special waste facility plan type IV substantial change with a public hearing. This license is authorized and identified at A.R.S. § 49-762.06(B). 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 are required. Application components are identified at R18-8-307 and R18-8-1601 through R18-8-1614 and include a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-13-701 through R18-13-703. Table 13 shows 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 62 business days (approximately 90 calendar days) for the substantive review time-frame.

Group IV: Special waste facility individual discharging aquifer protection (AP) licenses. These AP licenses are described here as a separate group from those in Tables 10 and 12 above because they are administered by the special waste program. Discussion of the AP licenses listed under Group I (wastewater facilities) in Table 10 above, however, applies here as well.

(10) Standard special 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 13 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(11) Standard special 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

Arizona Administrative Register
Notices of Final Rulemaking

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 13 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(12) Complex special 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 13 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(13) Complex special 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 13 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(14) Standard special 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 13 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(15) Standard special 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 13 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(16) Complex special 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 7 above, Table 13 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(17) Complex special 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

Arizona Administrative Register
Notices of Final Rulemaking

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 13 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(18) Standard special 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 13 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(19) Complex special 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 R18-9-120 through R18-9-121 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 10 above, Table 13 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(20) Special 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 13 shows 21 business days for administrative completeness review and 32 business days for substantive review.

(21) Special 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 13 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(22) Standard special 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 13 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(23) Complex special waste discharging facility AP post-closure plan approval. Table 13 shows this category based on category 28 above with substantive review increased from 41 business days to 125 business days. This represents approximately 6 months for the substantive review time-frame.

(24) Special waste 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 and a public

Arizona Administrative Register
Notices of Final Rulemaking

hearing is not required. Application components are identified at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under Table 5, license category 15 above, Table 13 shows 15 business days for administrative completeness review and 47 business days for substantive review.

(25) Special waste 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 and a public hearing is not required. Application components are identified at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under Table 10, license category 16 above, Table 13 shows 15 business days for administrative completeness review and 27 business days for substantive review.

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

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

(1) Special waste generator identification number. This license is authorized and identified at A.R.S. §§ 49-762 and 49-857 and is governed by A.A.C. R18-8-302(A). 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 R18-8-302(A) and require a Department-generated application form. This license is not subject to licensing time-frames because the Department issues them within 7 calendar days in accordance with A.R.S. § 41-1073(D).

(2) Special waste shipper identification number. The reason for the exclusion of this category from this rule are the same as for Category 1 above. Application components are identified at R18-8-303(A).

(3) Special waste receiving facility identification number. The reason for the exclusion of this category from this rule are the same as for Category 1 above. Application components are identified at R18-8-304(A).

(4) Special waste facility plan type II change. This license is authorized and identified at A.R.S. § 49-762.06(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.

14) Table 14: Landfill Licenses

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

The Department issues the following licenses as part of the state's landfill 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 14 with the same corresponding numbers in parentheses. The arrangement of licenses categories on Table 14 is as follows.

Group I: Solid waste landfill facility plan licenses.

Existing landfill facility plan approval (1).

New landfill facility plan approval without/with a public hearing (2-3).

New landfill operation temporary authorization (4).

Group II: Solid waste landfill facility amendment licenses.

Solid waste facility plan type III substantial change (landfill) (5).

Solid waste facility plan type IV substantial change (landfill) without/with a public hearing (6-7).

Group III: Solid waste landfill facility individual discharging aquifer protection (AP) licenses.

Standard landfill discharging facility AP new permit without/with a public hearing (8-9).

Complex landfill discharging facility AP new permit without/with a public hearing (10-11).

Standard landfill discharging facility AP major modification permit without/with a public hearing (12-13).

Complex landfill discharging facility AP major modification permit without/with a public hearing (14-15).

Standard/complex discharging facility AP other modification permit (16-17).

Landfill discharging facility AP permit transfer approval (18).

Landfill discharging facility AP permit closure plan approval (19).

Standard/complex discharging facility AP post-closure plan approval (20-21).

Group I: Solid waste landfill facility plan licenses. Currently, the Department's solid waste section administers this group of licenses governing municipal and non-municipal solid waste landfill facilities. The application components for the municipal solid waste landfill licenses are identified at A.R.S. § 49-761(B) which incorporates by reference 40 CFR Part 258. The application components for the non-municipal solid waste landfill licenses are identified at A.R.S. § 49-762.07(E) which incorporates by reference 40 CFR Part 257.

(1) Existing landfill facility plan approval. This license is authorized and identified at A.R.S. § 49-761(B). 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 A.R.S. §§ 49-761(B) and 49-762.07(E) and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-13-701 through R18-13-703. A.R.S. § 49-762.04 identifies certain application review times: 30 calendar days for administrative completeness review plus another 15 calendar days if the Department issues a notice of administrative deficiencies and a licensing decision within 180 calendar days after administrative completeness. Table 14 shows 32 business days (approximately 45 calendar days) for the administrative completeness review time-frame and 124 business days (approximately 180 calendar days) for the substantive review time-frame.

(2) New landfill facility plan approval with no public hearing. This license is authorized and identified at A.R.S. § 49-761(B). 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 A.R.S. §§ 49-761(B) and 49-762.07(E) and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-13-701 through R18-13-703. A.R.S. § 49-762.04 identifies certain application review times: 30 calendar days for administrative completeness review plus another 15 calendar days if the Department issues a notice of administrative deficiencies and a licensing decision within 90 calendar days after administrative completeness. Table 14 shows 32 business days (approximately 45 calendar days) for the administrative completeness review time-frame and 62 business days (approximately 90 calendar days) for the substantive review time-frame.

(3) New landfill facility plan approval with a public hearing. This license is authorized and identified at A.R.S. § 49-761(B). 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 is required. Application components are identified at A.R.S. §§ 49-761(B) and 49-762.07(E) and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-13-701 through R18-13-703. A.R.S. § 49-762.04 identifies certain application review times: 30 calendar days for administrative completeness review plus another 15 calendar days if the Department issues a notice of administrative deficiencies, a proposed licensing decision within 90 calendar days after administrative completeness, the holding of a public hearing within 45 calendar days after the proposed decision, issuance of a notice of technical deficiencies, if issued, within 30 calendar days after the hearing, and issuance of the final decision within 15 calendar days after receipt of applicant's response to the deficiency notice. Table 14 shows 32 business days (approximately 45 calendar days) for the administrative completeness review time-frame and 124 business days (approximately 180 calendar days) for the substantive review time-frame. This represents the calendar times in statute assuming 1 day for the public hearing and 1 day for the applicant to respond to the deficiency notice.

(4) New landfill operation temporary authorization. This license is authorized and identified at A.R.S. § 49-762.03(C). This license is not subject to sanctions because no application review fees are required. This is a Model E license because substantive review of non-uniform application components and a public hearing is required. Application components are identified in statute at A.R.S. § 49-762.03(C) and require site inspection. Table 14 shows 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: Solid waste landfill facility amendment licenses. Currently, the Department's solid waste section administers this group of licenses governing municipal and non-municipal solid waste landfill facilities. The application components for the municipal solid waste landfill amendment licenses are identified at A.R.S. § 49-761(B) which incorporates by reference 40 CFR Part 258. The application components for the non-municipal solid waste landfill amendment licenses are identified at A.R.S. § 49-762.07(E) which incorporates by reference 40 CFR Part 257.

(5) Solid waste facility plan type III substantial change (landfill). This license is authorized and identified at A.R.S. § 49-762.06(B). 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 and no public hearing is required. Application components are identified at A.R.S. §§ 49-761(B) and 49-762.07(E) and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-13-701 through R18-13-703. Table 14 shows 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

(6) Solid waste facility plan type IV substantial change (landfill) with no public hearing. This license is authorized and identified at A.R.S. § 49-762.06(B). 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 and no public hearing is required. Application components are identified at A.R.S. §§ 49-761(B) and 49-762.07(E) and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-13-701 through R18-13-703. Table 14 shows 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.

(7) Solid waste facility plan type IV substantial change (landfill) with a public hearing. This license is authorized and identified at A.R.S. § 49-762.06(B). 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 is required. Application components are identified at A.R.S. §§ 49-761(B) and 49-762.07(E) and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-13-701 through R18-13-703. Table 14 shows 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 62 business days (approximately 90 calendar days) for the substantive review time-frame.

Group III: Solid waste landfill 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 landfill program. Discussion of the AP licenses listed under Group I (wastewater facilities) in Table 10 above, however, applies here as well.

(8) Standard landfill 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 an 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 14 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(9) Standard landfill 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 an 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 14 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(10) Complex landfill 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 an 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 14 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(11) Complex landfill 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 an 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-

Arizona Administrative Register
Notices of Final Rulemaking

108. Following the analysis and discussion under Table 10, license category 4 above, Table 14 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(12) Standard landfill 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 an 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 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 14 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(13) Standard landfill 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 an 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 14 shows 35 business days for administrative completeness review and 232 business days for substantive review.

(14) Complex landfill 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 an 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 7 above, Table 14 shows 35 business days for administrative completeness review and 249 business days for substantive review.

(15) Complex landfill 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 an 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 14 shows 35 business days for administrative completeness review and 295 business days for substantive review.

(16) Standard landfill 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 an 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 14 shows 35 business days for administrative completeness review and 186 business days for substantive review.

(17) Complex landfill 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 an 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 14 shows 35 business days for administrative completeness review and 249 business days for substantive review.

Arizona Administrative Register
Notices of Final Rulemaking

(18) Landfill 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 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 rule at R18-9-121(E) and require a Department-generated application form and an initial fee. Following the analysis and discussion under Table 10, license category 11 above, Table 14 shows 21 business days for administrative completeness review and 32 business days for substantive review.

(19) Landfill 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 an 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 14 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(20) Standard landfill 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 an 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 14 shows 21 business days for administrative completeness review and 41 business days for substantive review.

(21) Complex landfill discharging facility AP post-closure plan approval. Table 14 shows this category based on Category 23 above with substantive review increased from 41 business days to 125 business days. This represents approximately 6 months for the substantive review time-frame.

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) Landfill registration. This license is authorized and identified at A.R.S. § 49-747(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.

(2) Solid waste landfill facility plan type II change (MSWLF) determination. This license is authorized and identified at A.R.S. § 49-762.06(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.

(3) Solid waste landfill facility plan type II change (non-MSWLF) determination. This license is authorized and identified at A.R.S. § 49-762.06(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.

15) Table 15: Medical Waste Licenses.

This table is reserved.

16) Table 16: Waste Tire, Lead Acid Battery and Used Oil 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 recycling program. The following numbered license categories appear on Table 16 with the same corresponding numbers shown in parentheses. The arrangement of licenses categories on this Table is as follows.

Group I: Waste tire licenses.

Waste tire collection site registration (1).

Mining off-road waste tire collection facility license (2).

Group II: Lead acid battery licenses.
Lead battery collection or recycling facility authorization (3).

Group III: Used oil licenses.
Used oil collection center registration number (4).

Group I: Waste tire licenses.

(1) Waste tire collection site registration. This license is authorized and identified at A.R.S. § 44-1303. This license is not subject to sanctions because the Department collects no fees for the review of applications. This license 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 at R18-8-302(A) and required a Department-generated application form. Table 16 shows this category with 11 business days (approximately 15 calendar days) for the administrative completeness review time-frame and 21 business days (approximately 30 calendar days) for the substantive review time-frame.

(2) Mining off-road waste tire collection facility license. This license is authorized and identified at A.R.S. § 44-1304 and governed by A.A.C. R18-8-511 and R18-8-706. This license is not subject to sanctions because the Department collects no fees for the review of applications. This license 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 A.R.S. § 44-1304. Table 16 shows this category with 32 business days (approximately 45 calendar days) for the administrative completeness review time-frame and 62 business days (approximately 90 calendar days) for the substantive review time-frame.

Group II: Lead acid battery licenses.

(3) Lead battery collection or recycling facility authorization. This license is authorized and identified at A.R.S. § 44-1322(C). This license is not subject to sanctions because the Department collects no fees for the review of applications. This license 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 statute at A.R.S. § 49-857.01(A) and require a Department-generated application form. Table 16 shows this category with 32 business days (approximately 45 calendar days) for the administrative completeness review time-frame and 62 business days (approximately 90 calendar days) for the substantive review time-frame.

Group III: Used oil licenses.

(4) Used oil collection center registration number. This license is authorized and identified at A.R.S. § 49-802(C)(1). This license is not subject to sanctions because the Department collects no fees for the review of applications. This license 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 at A.R.S. § 49-802(C)(1). Table 16 shows this category with 11 business days (approximately 15 calendar days) for the administrative completeness review time-frame and 21 business days (approximately 30 calendar days) for the substantive review time-frame.

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) Mining off-road waste tire burial notice. This license is authorized and identified at A.R.S. § 44-1304 and governed by A.A.C. R18-8-702(B).

(2) Used oil processor and re-refiner identification number. This license is authorized and identified at A.R.S. § 49-802(A).

(3) Used oil burner identification number. This license is authorized and identified at A.R.S. § 49-802(A).

(4) Used oil marketer identification number. This license is authorized and identified at A.R.S. § 49-802(A).

(5) Used oil transporter identification number. This license is authorized and identified at A.R.S. § 49-802(A).

17) Table 17: Hazardous Waste 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 hazardous waste disposal and management programs in accordance with A.R.S. §§ 49-901 through 49-932 and administered by the Department's Hazardous Waste Section of the Waste Programs Division. The following numbered license catego-

Arizona Administrative Register
Notices of Final Rulemaking

ries appear on Table 17 with the same corresponding numbers shown in parentheses. The arrangement of licenses categories on this Table is as follows.

Group I: RCRA new and renewal licenses.

Hazardous waste container or tank permit without/with a public hearing (1-2).
Hazardous waste surface impoundment permit without/with a public hearing (3-4).
Hazardous waste pile permit without/with a public hearing (5-6).
Hazardous waste incinerator or burning boiler and industrial furnace permit without/with a public hearing (7-8).
Hazardous waste land treatment permit without/with a public hearing (9-10).
Hazardous waste landfill facility permit without/with a public hearing (11-12).
Hazardous waste miscellaneous unit permit without/with a public hearing (13-14).
Hazardous waste drip pad permit without/with a public hearing (15-16).
Hazardous waste emergency permit (17).
Hazardous waste land treatment demonstration using field test or laboratory analysis permit (18).
Hazardous waste research, development, and demonstration permit (19).
Hazardous waste temporary authorization request approval (20).

Group II: RCRA modification licenses.

Hazardous waste permit transfer approval (21).
Hazardous waste Class I permit modification (22).
Hazardous waste Class 2 permit modification (23).
Hazardous waste Class 3 incinerator, burning boiler and industrial furnace, or landfill permit modification (24).
Hazardous waste Class 3 other permit modification (25).
Hazardous waste permit modification classification request (26).

Group III: Hazardous waste closure plan licenses.

Hazardous waste interim status facility partial closure plan approval (27).
Hazardous waste interim status facility final closure plan approval (28).
Hazardous waste post-closure permit without/with a public hearing (29-30).

Group IV: Hazardous waste voluntary environmental mitigation use restriction (VEMUR) licenses.

Hazardous waste facility VEMUR approval (31).
Hazardous waste facility VEMUR cancellation approval (32).

The following list compares the substantive review time-frames (SRTF) in this draft rule for the main hazardous waste license categories. These times are for applications not requiring a public hearing. Add 2 months for a public hearing to these categories for those that must hold a public hearing if 1 is requested. Administrative completeness review is 4 months for all permits except as noted otherwise.

SRTF = 4 months.

Emergency permit (2 weeks for administrative completeness).
Temporary authorization.

SRTF = 4½ months.

Partial closure plan approval.
Final closure plan approval.

SRTF = 6 months.

Permit transfer.
Class 1 modification.
Modification classification.

SRTF = 12 months (1 year).

Container only permit.
Tank only permit.

SRTF = 18 months.

Surface impoundment permit.
Pile permit.
Land treatment permit.
Miscellaneous unit permit.
Drip pad permit.
Land treatment demonstration using field test or laboratory analysis.
Research, development, and demonstration permit.

Arizona Administrative Register
Notices of Final Rulemaking

Class 2 modification.
Class 3 other modification.
Post-closure plan approval.

SRTF = 24 months (2 years).

Incinerator permit.
Burning boiler and industrial furnace (BIF) permit.
Landfill facility.
Class 3 incinerator, BIF, or landfill modification.

Group I: Resource Conservation and Recovery Act (RCRA) new and renewal licenses. The following 20 RCRA-related state hazardous waste management license categories reflect those identified in 40 C.F.R. Subparts B (§§ 270.10 through 270.29) and F (§§ 270.62 through 270.67).

(1) Hazardous waste container or tank permit with no public hearing. This license is authorized and identified at A.R.S. § 49-922 and A.A.C. R18-8-270. 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 40 C.F.R. §§ 270.10 through 270.16 and 270.27 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). This category includes facilities characterized as conducting storage operations. Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 251 business days (approximately 1 year) for the substantive review time-frame.

(2) Hazardous waste container or tank only permit with a public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 is required. Application components are identified in rule at 40 C.F.R. §§ 270.10 through 270.16 and 270.27 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). This category includes facilities characterized as conducting storage operations. Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 293 business days (approximately 14 months) for the substantive review time-frame. This is an increase of approximately 2 months over the companion category 1 above not requiring a public hearing. This category is available for applications for containers or tanks only. Applications for a container or tank that also contain other hazardous waste permitable items described in other categories below must be processed in those other categories.

(3) Hazardous waste surface impoundment permit with no public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. §§ 270.10 through 270.14, 270.17 and 270.27 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 376 business days (approximately 18 months) for the substantive review time-frame.

(4) Hazardous waste surface impoundment permit with a public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 is required. Application components are identified in rule at 40 C.F.R. §§ 270.10 through 270.14, 270.17 and 270.27 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 418 business days (approximately 20 months) for the substantive review time-frame. This is an increase of approximately 2 months over the companion category 3 above not requiring a public hearing.

(5) Hazardous waste pile permit with no public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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

Arizona Administrative Register
Notices of Final Rulemaking

is not required. Application components are identified in rule at 40 C.F.R. §§ 270.10 through 270.14 and 270.18 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 376 business days (approximately 18 months) for the substantive review time-frame.

(6) Hazardous waste pile permit with a public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 is required. Application components are identified in rule at 40 C.F.R. §§ 270.10 through 270.14 and 270.18 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 418 business days (approximately 20 months) for the substantive review time-frame. This is an increase of approximately 2 months over the companion category 5 above not requiring a public hearing.

(7) Hazardous waste incinerator or burning boiler and industrial furnace (BIF) permit with no public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. §§ 270.10 through 270.14, 270.19, 270.22, 262.62 and 270.66 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 502 business days (approximately 2 years) for the substantive review time-frame.

(8) Hazardous waste incinerator or burning boiler and industrial furnace (BIF) permit with a public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 is required. Application components are identified in rule at 40 C.F.R. §§ 270.10 through 270.14, 270.19, 270.22, 262.62, and 270.66 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 544 business days (approximately 26 months) for the substantive review time-frame. This is an increase of approximately 2 months over the companion category 7 above not requiring a public hearing.

(9) Hazardous waste land treatment permit with no public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. §§ 270.10 through 270.14 and 270.20 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 376 business days (approximately 18 months) for the substantive review time-frame.

(10) Hazardous waste land treatment permit with a public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 is required. Application components are identified in rule at 40 C.F.R. §§ 270.10 through 270.14 and 270.20 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 418 business days (approximately 20 months) for the substantive review time-frame. This is an increase of approximately 2 months over the companion category 9 above not requiring a public hearing.

(11) Hazardous waste landfill facility permit with no public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. §§ 270.10 through 270.14 and 270.21 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 502 business days (approximately 2 years) for the substantive review time-frame.

(12) Hazardous waste landfill facility permit with a public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 is required. Application components are identified in rule at 40 C.F.R. §§ 270.10 through 270.14 and 270.21 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 544 business days (approximately 26 months) for the substantive review time-frame. This is an increase of approximately 2 months over the companion category 11 above not requiring a public hearing.

(13) Hazardous waste miscellaneous unit permit with no public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. §§ 270.10 through 270.14 and 270.23 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). This category includes facilities characterized as conducting recycling operations. Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 376 business days (approximately 18 months) for the substantive review time-frame.

(14) Hazardous waste miscellaneous unit permit with a public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 is required. Application components are identified in rule at 40 C.F.R. §§ 270.10 through 270.14 and 270.23 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). This category includes facilities characterized as conducting recycling operations. Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 418 business days (approximately 20 months) for the substantive review time-frame. This is an increase of approximately 2 months over the companion category 13 above not requiring a public hearing.

(15) Hazardous waste drip pad permit with no public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. §§ 270.10 through 270.14 and 270.26 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 376 business days (approximately 18 months) for the substantive review time-frame.

(16) Hazardous waste drip pad permit with a public hearing. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 is required. Application components are identified in rule at 40 C.F.R. §§ 270.10 through 270.14 and 270.26 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 418 business days (approximately 20 months) for the substantive review time-frame. This is an increase of approximately 2 months over the companion category 15 above not requiring a public hearing.

(17) Hazardous waste emergency permit. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. § 270.61 as incorporated by R18-8-270 and require a Department-generated application form and site inspection. Table 17 shows 10 business days

Arizona Administrative Register
Notices of Final Rulemaking

(approximately 2 weeks) for the administrative completeness review time-frame and 84 business days (approximately 4 months) for the substantive review time-frame. Department experience is limited for this category in that only 2 applications have been received. The federal rules provide the ability for applicants to make oral requests and receive oral authorizations. The oral license grant is then followed up with a written after-the-fact "application" by the applicant. The Department has determined that oral grants made in the absence of a written application results in a license not subject to Article 7.1 time-frame requirements. This is because Article 7.1 requires that a time-frame does not start until a written application has been received. Here, the written application is not received until after the license has been granted. For this reason, the Department believes that the Article cannot apply to such licensing activities. The category described here, therefore, would apply only to licensing activity when a written application is received by the Department prior to making a licensing decision.

(18) Hazardous waste land treatment demonstration using field test or laboratory analysis permit. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. § 270.63 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 376 business days (approximately 18 months) for the substantive review time-frame.

(19) Hazardous waste research, development, and demonstration permit. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270(Q). 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 40 C.F.R. § 270.65 as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 376 business days (approximately 18 months) for the substantive review time-frame.

(20) Hazardous waste temporary authorization request approval. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. § 270.42(e) as incorporated by R18-8-270 and require a Department-generated form and site inspection. Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 84 business days (approximately 4 months) for the substantive review time-frame.

Group II: Resource Conservation and Recovery Act (RCRA) modification licenses. The following 6 RCRA permits reflect those identified in 40 C.F.R. Subpart D (§§ 270.40 through 270.43).

(21) Hazardous waste permit transfer approval. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. § 270.40 as incorporated by R18-8-270 and require a Department-generated application form and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 125 business days (approximately 6 months) for the substantive review time-frame.

(22) Hazardous waste Class 1 permit modification. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. § 270.42(a) as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 125 business days (approximately 6 months) for the substantive review time-frame. Under RCRA, applicants for a Class 1 permit modification can request the Department to process the application as if it were a Class 2 permit modification. In regards to licensing time-frame requirements, the Department expects to handle such requests by processing them within the appropriate Class 2 category below.

(23) Hazardous waste Class 2 permit modification. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. § 270.42(b) as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 376 business days (approximately 18 months) for the substantive review time-frame. Under RCRA, applicants for a Class 2 permit modification can request the Department to process the application as if it were a Class 3 permit modification. In regards to licensing time-frame requirements, the Department expects to handle such requests by processing them within the appropriate Class 3 category below.

(24) Hazardous waste Class 3 incinerator, BIF, or landfill permit modification. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. § 270.42(c) as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 502 business days (approximately 2 years) for the substantive review time-frame.

(25) Hazardous waste Class 3 other permit modification. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. § 270.42(c) as incorporated by R18-8-270 and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 376 business days (approximately 18 months) for the substantive review time-frame.

(26) Hazardous waste permit modification classification request. This license is authorized and identified at A.R.S. § 49-922 and R18-8-270. 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 40 C.F.R. § 270.42(d) as incorporated by R18-8-270 and require a Department-generated application form and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 125 business days (approximately 6 months) for the substantive review time-frame.

Group III: Hazardous waste closure plan licenses.

(27) Hazardous waste interim status facility partial closure plan approval. This license is authorized and identified at A.R.S. § 49-922. 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 40 C.F.R. §§ 264 Subpart G and 265 Subpart G and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 95 business days (approximately 4½ months) for the substantive review time-frame.

(28) Hazardous waste interim status facility final closure plan approval. This license is authorized and identified at A.R.S. § 49-922. 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 40 C.F.R. §§ 264 Subpart G and 265 Subpart G and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 95 business days (approximately 4½ months) for the substantive review time-frame.

(29) Hazardous waste post-closure permit with no public hearing. This license is authorized and identified at A.R.S. § 49-922. 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

Arizona Administrative Register
Notices of Final Rulemaking

required. Application components are identified at 40 C.F.R. § 270.1(c) and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 376 business days (approximately 18 months) for the substantive review time-frame.

(30) Hazardous waste post-closure permit with no public hearing. This license is authorized and identified at A.R.S. § 49-922. 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 is required. Application components are identified at 40 C.F.R. § 270.1(c) and require a Department-generated application form, site inspection and an initial fee. The fee is identified at R18-8-270(G). Table 17 shows 84 business days (approximately 4 months) for the administrative completeness review time-frame and 418 business days (approximately 20 months) for the substantive review time-frame. This is an increase of approximately 2 months over the companion category not requiring a public hearing.

Group IV: Hazardous waste voluntary environmental mitigation use restriction (VEMUR) licenses.

(31) Hazardous waste facility 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 no public hearing is required. Application components are identified at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under Table 10, license category 15 above, Table 17 shows 15 business days for administrative completeness review and 47 business days for substantive review.

(32) Hazardous waste facility 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 and no public hearing 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 Table 10, license category 16 above, Table 17 shows 15 business days for administrative completeness review and 27 business days 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) EPA identification number assignment. This license is authorized and identified at A.R.S. § 49-922. Application components are identified in rule at A.A.C. R18-8-262(D), R18-8-263(B), R18-8-264(C), R18-8-265(C), and R18-8-273. These rules, in turn, reference 40 C.F.R. §§ 260.10, 262.12, 263.11, 264.11, 265.11, 273.32, 279.42, 279.51, 279.62, and 279.73 and EPA 8700-12. 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.

18) Table 18: Underground Storage Tank Licenses.

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

The Department issues the following licenses as part of the state's underground storage tank (UST) regulation and leaking UST (LUST) state assurance fund (SAF) programs in accordance with A.R.S. §§ 49-1001 through 49-1082 and administered by the Department's UST Section of the Waste Programs Division (for UST and LUST) and Office of Fiscal Services of the Deputy Director's Office (for SAF). The following numbered license categories appear on Table 18 with the same corresponding numbers shown in parentheses. The arrangement of licenses categories on this Table is as follows.

Group I: Underground storage tank (UST) technical requirement licenses.
UST temporary closure extension request approval (1).

Group II: UST service provider licenses.
UST installation and retrofit service provider certification (2).
UST tightness testing service provider certification (3).
UST cathodic protection testing service provider certification (4).
UST decommissioning service provider certification (5).
UST interior lining service provider certification (6).

Group III: Leaking UST (LUST) licenses.

LUST voluntary environmental mitigation use restriction (VEMUR) approval (7).

LUST VEMUR cancellation approval (8).

Group IV: State assurance fund (SAF) licenses.

SAF firm pre-qualification approval (9).

Group I: Underground storage tank (UST) technical requirement licenses.

(1) UST temporary closure extension request approval. This license is authorized and required by A.R.S. § 49-1008 and governed by R18-12-270. 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. (See discussion of license processing models at § I(C)(3)(a) above.) Application components are identified in rule at R18-12-270(F)-(G) and require a Department-generated application form. No application review times are specified in statute or rule. By rule, if an application is received no later than 30 days prior to the expiration of the 12-month temporary closure period, the applicant automatically receives an extension until the Department makes its decision to grant or deny the license. If denied, the extension continues for 180 days after receipt. This means that if denial is to occur, it is in the applicant's interest that the denial occur as late as possible. Department experience is that well prepared applications usually result in early decisions to grant and that poorly prepared applications usually require extensive interaction with the applicant in an effort to achieve an approvable application. This suggests that short review deadlines will work to the detriment of applicants especially as no refunds are possible in this license category. Applicants eager to receive this license can encourage early approval by submitting complete applications in the 1st instance and as early as possible in advance of the application deadline. Table 18 shows 42 business days for the administrative completeness review time-frame (approximately 2 months) and 84 business days for the substantive review time-frame (approximately 4 months). This is reasonable because the volume of requests for this license should remain low despite the December 22, 1998 deadline for upgrading UST systems. This is because the cost of the site assessment which must accompany the request for extension of temporary closure represents the majority of the cost of permanent closure or change-in-service. For this reason, the financial advantage of extending temporary closure is probably minimal in most cases. Department experience is that the time to review and reach a licensing decision on an application for extension of temporary closure is approximately the same as to review and reach a licensing decision on a closure report for compliance. With the anticipated work load in late 1998 and early 1999, the above periods for administrative and substantive review of extension requests should allow for processing of both the permanent closure reports and this license, assuming Department resources for the review remain unchanged.

Group II: UST service provider licenses. Each of these licenses is authorized and required by A.R.S. § 49-1082 and governed by R18-12-801 through R18-12-809. These licenses are not subject to sanctions because the Department collects no fees from applicants for their issuance. These are Model D licenses because substantive review of uniform application components is required and a public hearing is not required. Application components are identified in rule at R18-12-806 and require a Department-generated application form. Certain application review times are specified in rule at R18-12-806(C): a licensing decision shall be made within 30 calendar days of receipt and a notice of administrative deficiencies, if made, shall be issued within 15 calendar days of receipt. These 2 calendar periods of 15 days each identified at R18-12-806(C) convert to business days as 11 days for the administrative completeness review time-frame and 11 days for the substantive review time-frame. These together total 22 business days or 1 day longer than the standard conversion of 30 calendar days to 21 business days. This is reasonably equivalent because the 22 business days include the day of receipt whereas the 30 calendar days do not. These are the times shown on Table 18 for all license categories in this group. Department experience is that all licensing decisions are made not later than the 30-day rule limit. Applicants who fail to respond adequately to a notice of administrative deficiencies before the 30-day rule limit are subject to routine denial of their applications.

(2) UST installation and retrofit service provider certification. This license is identified specifically at R18-12-803(1). The requirements, circumstances, and time-frame assignments of this license are as described above for all licenses under this group.

(3) UST tightness testing service provider certification. This license is identified specifically at R18-12-803(2). The requirements, circumstances, and time-frame assignments of this license are as described above for all licenses under this group.

(4) UST cathodic protection testing service provider certification. This license is identified specifically at R18-12-803(3). The requirements, circumstances, and time-frame assignments of this license are as described above for all licenses under this group.

Arizona Administrative Register
Notices of Final Rulemaking

(5) UST decommissioning service provider certification. This license is identified specifically at R18-12-803(4). The requirements, circumstances, and time-frame assignments of this licence are as described above for all licenses under this group.

(6) UST interior lining service provider certification. This license is identified specifically at R18-12-803(5). The requirements, circumstances, and time-frame assignments of this licence are as described above for all licenses under this group.

Group III: Leaking underground storage tank (LUST) licenses.

Categories 6(a) through 6(d) are not included in today's rule pending further discussion with stakeholders who raised objections to the inclusion of these categories. The following explanations are those that would have appeared had these categories been included in today's rule. The Department expects to include these categories in its next annual amendatory rulemaking for this Article when further consultation with the public concerning these categories has been completed.

(6)(a) Standard LUST corrective action plan (CAP) approval with no public hearing. This license is authorized and governed by A.R.S. § 49-1005. 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 meeting is not required. Application components are identified at 40 C.F.R. §§ 280.66 and 280.67 and a Department-generated application form is required. No review times are identified in statute or rule. **This category is not included in today's rule:** *The times for administrative and substantive review shown on Table 18 are based on anticipated work-load and staffing. The availability of resources for CAP review is significantly reduced (from the approximate 20% of UST/LUST Section Remedial Actions Unit staff time previously devoted to these applications) to something in the area of 1% to 3% of available Unit staff time. The reduction of available resources is due to the Remedial Actions Unit assuming full responsibility for technical review of SAF claims for both pre-approval and reimbursement from the SAF contractor. While there is a potential for additional Department staffing to handle the increased SAF work-load, the timing between the additional work and staffing will not be coincident. Table 18 shows 42 business days for the administrative completeness review time-frame (approximately 2 months) and 146 business days for the substantive review time-frame (approximately 7 months).*

(6)(b) Standard LUST corrective action plan approval with a public hearing. This license is authorized and governed by A.R.S. § 49-1005. This license is not subject to sanctions because the Department collects no fees from applicants for its issuance. This is a Model F license because a public meeting is required in addition to substantive review of non-uniform application components. Application components are identified at 40 C.F.R. §§ 280.66 and 280.67 and a Department-generated application form is required. No review times are identified in statute or rule. **This category is not included in today's rule:** *Table 18 shows 42 business days for the administrative completeness review time-frame (approximately 2 months) and 209 business days for the substantive review time-frame (approximately 10 months).*

(6)(c) Complex LUST corrective action plan approval with no public hearing. This license is authorized and governed by A.R.S. § 49-1005. 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 meeting is not required. Application components are identified at 40 C.F.R. §§ 280.66 and 280.67 and a Department-generated application form is required. No review times are identified in statute or rule. **This category is not included in today's rule:** *Table 18 shows 42 business days for the administrative completeness review time-frame (approximately 2 months) and 209 business days for the substantive review time-frame (approximately 10 months).*

(6)(d) Complex LUST corrective action plan approval with a public hearing. This license is authorized and governed by A.R.S. § 49-1005 and governed by 40 C.F.R. §§ 280.66 and 280.67. This license is not subject to sanctions because the Department collects no fees from applicants for its issuance. This is a Model F license because a public meeting is required in addition to substantive review of non-uniform application components. Application components are identified at 40 C.F.R. §§ 280.66 and 280.67 and a Department-generated application form is required. No review times are identified in statute or rule. **This category is not included in today's rule:** *Table 18 shows 42 business days for the administrative completeness review time-frame (approximately 2 months) and 272 business days for the substantive review time-frame (approximately 13 months).*

(7) LUST 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 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 no public hearing is required. Application components are identified at R18-7-207. Following the analy-

Arizona Administrative Register
Notices of Final Rulemaking

sis and discussion under Table 10, license category 15 above, Table 18 shows 15 business days for administrative completeness review and 47 business days for substantive review.

(8) LUST 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 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 no public hearing is required. Application components are identified at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under Table 10, license category 16 above, Table 18 shows 15 business days for administrative completeness review and 27 business days for substantive review.

Group IV: State assurance fund (SAF) licenses.

(9) SAF firm pre-qualification approval. This license is authorized and identified at A.R.S. § 49-1052(D) and governed by A.A.C. R18-12-602. This license is not subject to sanctions because the Department collects no fees from applicants for its issuance. 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 R18-12-602 and require a Department-generated application form. No application review times are specified in statute or rule. Table 18 shows 11 business days (approximately 15 calendar days) for the administrative completeness review time-frame and 42 business days (approximately 60 calendar days) for the substantive review time-frame. Department experience is that applications are received episodically and frequently several submissions are received simultaneously, making prediction of processing times difficult.

Categories 9(a) through 9(d) are not included in today's rule pending further discussion with stakeholders who raised objections to the inclusion of these categories. The following explanations are those that would have appeared had these categories been included in today's rule. The Department expects to include these categories in its next annual amendatory rulemaking for this Article when further consultation with the public concerning these categories has been completed.

(9)(a) SAF pre-approval approval. This license is authorized and required by A.R.S. § 49-1052 and governed by R18-12-607 and R18-12-607.01. 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 R18-12-601, R18-12-607 and R18-12-607.01 and require a Department-generated application form. Certain application review times are specified at R18-12-607.01(B) and (M). The rule requires the Department to issue a licensing decision within 90 calendar days of receipt of the application but subject to a number of complex suspensions designed to allow an applicant to cure deficiencies. The consequence of the Department's failure to issue a determination of technical deficiencies within 60 calendar days or a licensing decision within 90 calendar days (excluding suspension days) is that applicants may proceed in the corrective actions described in the application. **This category is not included in today's rule:** *Table 18 shows 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 42 business days (approximately 60 calendar days) for the substantive review time-frame.*

(9)(b) SAF direct payment approval. This license is authorized and required by A.R.S. § 49-1052 and governed by R18-12-607 and R18-12-607.01. 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 R18-12-601, R18-12-607 and R18-12-607.01 and require a Department-generated application form. Certain application review times are specified in R18-12-607.01(B) and (M). The rule requires the Department to issue a licensing decision within 90 calendar days of receipt of the application but subject to a number of complex suspensions designed to allow an applicant to cure deficiencies. The consequence of the Department's failure to issue a determination of technical deficiencies within 60 calendar days or a licensing decision within 90 calendar days (excluding suspension days) is that applicants may proceed in the corrective actions described in the application. **This category is not included in today's rule:** *Table 18 shows 21 business days (approximately 30 calendar days) for the administrative completeness review time-frame and 42 business days (approximately 60 calendar days) for the substantive review time-frame.*

(9)(c) Standard SAF reimbursement approval. This license is authorized and required at A.R.S. § 49-1052 and A.A.C. R18-12-604 and R18-12-605. 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 at R18-12-601, R18-12-604 and R18-12-605 and require a Department-generated application form. No application review times are specified in statute or rule. **This category is not included in today's rule:** *Table 18 shows 42 business days (approx-*

Arizona Administrative Register
Notices of Final Rulemaking

imately 2 months) for the administrative completeness review time-frame and 84 business days (approximately 4 months) for the substantive review time-frame.

(9)(d) Complex SAF reimbursement approval. This license is authorized and required at A.R.S. § 49-1052 and A.A.C. R18-12-604 and R18-12-605. 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 R18-12-601, R18-12-604 and R18-12-605 and require a Department-generated application form. No application review times are specified in statute or rule. **This category is not included in today's rule:** *Table 18 shows 42 business days (approximately 2 months) for the administrative completeness review time-frame and 167 business days (approximately 8 months) for the substantive review time-frame.*

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) UST notification. This Model B (notification) license is authorized and required by A.R.S. § 49-1002 and is governed by A.A.C. R18-12-222. An UST owner must report to the Department within 30 days of installation of an UST or change in information on a previously submitted notification form such as the acquisition of a facility or the closure of an UST. Failure to notify in a timely manner means that the UST owner is in violation of the law and is subject to enforcement action. Obtaining the license through notification protects the owner from enforcement. Upon receipt of the notification form, Department practice has been to assign an identification number to the owner or the facility, if 1 is not already assigned. Any new number is then sent to the owner making the filing. There is no requirement in statute or rule that identification numbers be assigned or disclosed to a notifier.

(2) UST permanent closure or change-in-service notice of intent. This Model B (notification) license is authorized and required by A.R.S. § 49-1008 and is governed by A.A.C. R18-12-271(A). An UST owner or operator must file this notice at least 30 days prior to a permanent closure or change-in-service. The license expires 6 months after notification. The Department issues a "closure number" upon receipt of the notice of intent although this is not required by rule. Department practice is to inform the UST owner or operator of the closure number. Once issued, however, the number is available for use by the UST owner or operator to arrange for an inspection by the Fire Marshal, an activity required under the Uniform Fire Code (UFC) but not by the Department. A closure number is not required to obtain the inspection although the Fire Marshall will probably ask the owner or operator for the number, if known. If the Fire Marshall is unable to conduct an inspection, the Department may conduct 1 of its own. If conducted, the inspection occurs under the Department's enforcement, not licensing, authority because the inspection is not required to validate either the notice of intent or the subsequent UST permanent closure or change-in-service report.

(3) UST permanent closure or change-in-service reports. This Model B (notification) license is authorized and required by A.R.S. § 49-1008 and is governed by A.A.C. R18-12-271. An owner or operator of an UST must file this report with the Department within 30 days of completion of a permanent closure or change-in-service under R18-12-271(D). Department practice is to review the report. This review is an enforcement, not a licensing, activity. If the report concerns a permanent closure, Department practice is to send the reporter a letter acknowledging clean closure if the Department so finds. If the Department does not find the closure to be clean, the Department forwards the report to UST Technical Support Unit (TSU) Case Evaluation and Ranking Team (CERT) and sends a 14-day letter to the UST owner or operator if the release has not already been reported. There is no rule requirement for this review and resulting letter or referral to TSU CERT.

(4) UST release or suspected release reports. These Model B (notification) licenses are authorized and required by A.R.S. § 49-1004 and governed by A.A.C. R18-12-234. An UST owner or operator must (1) report a release or suspected release orally or in writing to the Department within 24 hours of detection and (2) submit a written report to the Department describing the results of discovery activities within 14 days after the detection. Although the Department usually contacts the reporter to obtain further information, there is no requirement to do so in statute, 40 C.F.R. §§ 280.50 through 280.53, or rule.

(5) UST corrective action reports. These licenses are authorized and required by A.R.S. § 49-1005 and governed by A.A.C. R18-12-234. In addition to the UST corrective action plan appearing on Table 18, an UST owner or operator must submit reports on free product removal and site characterization to the Department in accordance with A.R.S. § 49-1005 which, in turn, references 40 C.F.R. §§280.64 and 280.65. The Department is not required to review or respond to these reports. Several other reports are received by the Department during the corrective action process which are not addressed directly in statute or rule. Frequently, monitoring reports and other periodic reports of work are submitted. All these are either Model B licenses or a form of compliance with license terms and conditions.

(6) Petroleum UST financial responsibility report. This Model B (notification) license is authorized and required by A.R.S. § 49-1006 and governed by A.A.C. R18-12-301. Owners and operators of petroleum UST systems must report evidence of compliance with financial responsibility requirements. The Department is not required to respond to these reports. If the Department determines a report insufficient, the Department will contact the reporter under the Department's enforcement, not licensing, authority.

(7) UST SAF corrective action phase notice. This Model B license is authorized and required under A.R.S. § 49-1052(O). An SAF eligible person must inform the Department prior to commencement of a phase of corrective action or coverage will be lost for that phase. Upon receipt of the notice, the Department sends the eligible person certain required information. The Department's response, although required by statute, does not confer permission; only information.

(8) UST tax program. In addition, the Department administers the UST tax program authorized and required by A.R.S. §§ 49-1031 through 49-1036 (Tit. 49, ch. 6, art. 2) and governed by A.A.C. R18-12-401 through R18-12-410 (Tit. 18, ch. 12, art. 4). This program collects an annual fee based on the quantity of regulated substances placed in a tank during the year. The UST tax program's (1) tax payments, (2) reporting, invoicing, and affidavit requirements, (3) refund requests, and (4) exemption certificates are all part of an annual compliance fee program and do not operate under the Department's licensing authority.

(9) UST fee program. The Department also administers the UST fee program authorized and required by A.R.S. § 49-1020 and governed by A.A.C. R18-12-501 (Tit. 18, ch. 12, art. 5). This program collects an annual fee of \$100 for each UST subject to the fee. This represents an annual compliance fee program and does not operate under the Department's licensing authority.

(10) LUST risk assessment methodology approval request. This license is authorized by A.R.S. § 49-152 and governed by R18-7-208. Application components are identified in rule at R18-7-208(C). Certain licensing review times are specified in rule at R18-7-208(D). 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) LUST remediation close-out document request. This license is authorized by A.R.S. § 49-152 and governed by R18-7-208. Application components are identified in rule at R18-7-208. 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.

(12) SAF grant. This license is not subject to Article 7.1 time-frame requirements because it occurs under the Department's contractual, not licensing, authority and, therefore, falls within the express exception for contractual activity at A.R.S. § 41-1005(16).

(13) SAF grant application. This license is authorized and required by A.R.S. § 49-1072 and governed by R18-12-701 through R18-12-714. 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 R18-12-705 and R18-12-706 and require a Department-generated application form. Licensees are permitted to enter into a grant agreement with the Department. Denial of the license means the prospective licensee is prohibited from entering into an agreement. As the grant itself is a contractual, not a licensing, activity by the Department, this draft rule does not show this preliminary license as 1 subject to Article 7.1.

19) Table 19: WQARF Remediation Licenses

The Department issues the following non-fee licenses which are subject to licensing time-frame requirements as part of the state's Water Quality Assurance Revolving Fund (WQARF) program in accordance with A.R.S. §§ 49-281 through 49-298 and the state's soil remediation program in accordance with A.R.S. §§ 49-151 through 49-152 and administered by the Department's Remedial Projects Section of the Waste Programs Division. The following numbered license categories appear on Tables 19 and 19-S with the same corresponding numbers shown in parentheses. Table 19 shows the licenses issued by the Phoenix Office and Table 19-S shows the licenses issued by the Southern Regional Office. The arrangement of licenses categories on these tables is as follows:

- WQARF preliminary investigation work plan approval (1).
- WQARF remedial investigation work plan approval (2).
- WQARF feasibility study work plan approval (3).
- WQARF standard/complex remedial action plan (RAP) approval (4-5).
- WQARF determination of no further action approval (6).
- WQARF site rescoring approval (7).
- WQARF qualified business settlement approval (8).

Arizona Administrative Register
Notices of Final Rulemaking

WQARF financial hardship settlement approval (9).

WQARF voluntary environmental mitigation use restriction (VEMUR) approval (10).

WQARF VEMUR cancellation approval (11).

(1) WQARF preliminary investigation work plan approval. This license is authorized and identified at A.R.S. §§ 49-282.06 and 49-287.01. 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 at A.R.S. §§ 49-151, 49-152, 49-282.06 and 49-287.01 and A.A.C. R18-7-201 through R18-7-209 and require site inspection. Tables 19 and 19-S show 21 business days (approximately 1 month) for the administrative completeness review time-frame and 63 business days (approximately 3 months) for the substantive review time-frame.

(2) WQARF remedial investigation work plan approval. This license is authorized and identified at A.R.S. §§ 49-282.06 and 49-287.03. 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 at A.R.S. §§ 49-151, 49-152, 49-282.06 and 49-287.03 and R18-7-201 through R18-7-209 and require site inspection. Tables 19 and 19-S show 21 business days (approximately 1 month) for the administrative completeness review time-frame and 63 business days (approximately 3 months) for the substantive review time-frame. If a public hearing is held the substantive review time is not increased because the hearing occurs concurrently with the other licensing activities.

(3) WQARF feasibility study work plan approval. This license is authorized and identified at A.R.S. §§ 49-282.06 and 49-287.03. 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. Departmental approval of a baseline risk assessment is conducted as part of the feasibility study work plan approval. Application components are identified at A.R.S. §§ 49-151, 49-152, 49-282.06 and 49-287.03 and R18-7-201 through R18-7-209 and require site inspection. Tables 19 and 19-S show 21 business days (approximately 1 month) for the administrative completeness review time-frame and 63 business days (approximately 3 months) for the substantive review time-frame. If a public hearing is held the substantive review time is not increased because the hearing occurs concurrently with the other licensing activities.

(4) WQARF standard remedial action plan (RAP) approval. This license is authorized and identified at A.R.S. §§ 49-282.06 and 49-287.04. 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. Departmental approval of risk assessment-derived cleanup levels or waiver of other regulatory or permit conditions is conducted as part of the RAP approval and memorialized with the rest of the approval in a Record of Decision. Application components are identified at A.R.S. §§ 49-151, 49-152, 49-282.06 and 49-287.04 and R18-7-201 through R18-7-209 and require site inspection. Tables 19 and 19-S show 21 business days (approximately 1 month) for the administrative completeness review time-frame and 105 business days (approximately 5 months) for the substantive review time-frame. If a public hearing is held the substantive review time is not increased because the hearing occurs concurrently with the other licensing activities.

(5) WQARF complex remedial action plan (RAP) approval. This license is authorized and identified at A.R.S. §§ 49-282.06 and 49-287.04. 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. Departmental approval of risk assessment-derived cleanup levels or waiver of other regulatory or permit conditions is conducted as part of the RAP approval and memorialized with the rest of the approval in a Record of Decision. Application components are identified at A.R.S. §§ 49-151, 49-152, 49-282.06 and 49-287.04 and R18-7-201 through R18-7-209 and require site inspection. Tables 19 and 19-S show 21 business days (approximately 1 month) for the administrative completeness review time-frame and 146 business days (approximately 5 months) for the substantive review time-frame. If a public hearing is held the substantive review time is not increased because the hearing occurs concurrently with the other licensing activities.

(6) WQARF determination of no further action approval. This license is authorized and identified at A.R.S. § 49-287.01. 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 at A.R.S. §§ 49-287.01(F) and 49-287.01(G) and require a site inspection. Tables 19 and 19-S show 42 business days (approximately 2 months) for the administrative completeness review time-frame and 84 business days (approximately 4 months) for the substantive review time-frame. If a public hearing is held the substantive review time is not increased because the hearing occurs concurrently with the other licensing activities.

Arizona Administrative Register
Notices of Final Rulemaking

(7) WQARF site rescoring approval. This license is authorized and identified at A.R.S. § 49-287.01(F). 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 at A.R.S. § 49-287.01(F) and require a site inspection. Tables 19 and 19-S show 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. If a public hearing is held the substantive review time is not increased because the hearing occurs concurrently with the other licensing activities.

(8) WQARF qualified business settlement approval. This license is authorized and identified at A.R.S. § 49-292.01(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 at A.R.S. § 49-292.01(B) and require a Department-generated application form. Tables 19 and 19-S show 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.

(9) WQARF financial hardship settlement approval. This license is authorized and identified at A.R.S. § 49-292.02(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 at A.R.S. § 49-292.02(B). Tables 19 and 19-S show 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.

(10) WQARF 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 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 no public hearing is required. Application components are identified at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under Table 10, license category 15 above, Tables 19 and 19-S show 15 business days for administrative completeness review and 47 business days for substantive review.

(11) WQARF 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 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 no public hearing is required. Application components are identified at R18-7-207 and require a Department-generated application form. Following the analysis and discussion under Table 10, license category 16 above, Tables 19 and 19-S show 15 business days for administrative completeness review and 27 business days for substantive review.

20) Table 20: Voluntary Program Remediation Licenses

The Department issues the following licenses which are subject to licensing time-frame requirements as part of the state's voluntary remediation program (VRP) in accordance with A.R.S. §§ 49-104(A)(17) and 49-282.05, the state's greenfields pilot program in accordance with A.R.S. §§ 49-153 through 49-157, and the state's soil remediation program in accordance with A.R.S. §§ 49-151 through 49-152 and administered by the Department's Voluntary Sites Unit of the Waste Programs Division. The following numbered license categories appear on Table 20 with the same corresponding numbers shown in parentheses. Those categories not shown with category numbers are not included in today's rule. The arrangement of licenses categories on this table is as follows.

Group I: Voluntary program acceptance license.
Voluntary program eligibility determination (1).

Group II: Voluntary program greenfields remediation license.
Greenfields notice-to-proceed (NTP) approval (2).

Group III: Voluntary program brownfields remediation license.
Voluntary program brownfields certification (3).

The following groups and categories are not included in today's rule:

Group IV: Voluntary program WQARF remediation licenses.
Voluntary program WQARF remedial investigation work plan approval.
Voluntary program WQARF feasibility study work plan approval.
Voluntary program WQARF standard/complex remedial action plan (RAP) approval.
Voluntary program WQARF letter of completion.

Arizona Administrative Register
Notices of Final Rulemaking

Voluntary program WQARF voluntary environmental mitigation use restriction (VEMUR) approval.
Voluntary program WQARF VEMUR cancellation.

Group V: Voluntary program nonlandfill solid waste remediation licenses.
Voluntary program standard/complex nonlandfill solid waste remediation work plan approval.
Voluntary program nonlandfill solid waste VEMUR approval.
Voluntary program nonlandfill solid waste VEMUR cancellation approval.

Group VI: Voluntary program special waste remediation licenses.
Voluntary program standard/complex special waste remediation work plan approval.
Voluntary program special waste VEMUR approval.
Voluntary program special waste VEMUR cancellation approval.

Group VII: Voluntary program hazardous waste remediation licenses.
Voluntary program standard/complex special waste remediation work plan approval.
Voluntary program hazardous waste VEMUR approval.
Voluntary program hazardous waste VEMUR cancellation approval.

Group VIII: Voluntary program leaking underground storage tank (LUST) remediation licenses.
Voluntary program standard LUST corrective action plan (CAP) approval without/with a public meeting.
Voluntary program complex LUST CAP approval without/with a public hearing.
Voluntary program LUST VEMUR approval.
Voluntary program LUST VEMUR cancellation approval.

All applicants for review under the voluntary program are charged application review fees. These applicants include “true volunteers” and “quasi-volunteers.”

True volunteers have no A.R.S. Title 49 remediation obligations but still desire Department review of the remedial activities. Failure by the Department to meet the time-frames on Table 20 will not result in refunds and excusals for true volunteer applications because such applications can never contain requests for a “permission required by law” as defined at A.R.S. § 41-1001(11).

Quasi-volunteers have A.R.S. Title 49 remediation obligations but have not yet been identified by the Department for enforcement. Failure by the Department to meet the time-frames on Table 20 will result in refunds and excusals for quasi-volunteer applications if the application contains a request for a “permission required by law” as defined at A.R.S. § 41-1001(11).

The Department recognizes that the distinction between “true volunteers” and “quasi-volunteers” will divide applicants in the voluntary remediation program into 2 groups depending on whether the applications are subject to Article 7.1 licensing time-frames or not. The Department expects this result, by necessity, to introduce a certain tension into the review activities of the program with applications subject to Article 7.1 taking review precedence over those not subject. This tension can be expected to increase as time-frames become shorter.

The Department solicited comment in the October 23, 1998, notice of proposed rulemaking on whether this analysis was legally sound and how the program should determine which applications are rightfully subject to Article 7.1 licensing time-frame requirements, and how the program should respond to the tensions inherent between applications subject to time-frames and those that are not. The Department received no comment. The difficulty in distinguishing whether an application is being made a true volunteer and thus cannot be subject to time-frames statute is one with important consequences. This is because these applications incur review fees. The refund of fees to persons not entitled to receive them is certain to involve violations of other statutes governing the handling and disposition of state monies. Until this matter can be successfully resolved, the high probability of true volunteers being applicants in these categories requires the Department to postpone inclusion of these categories in today's rule.

Group I: Voluntary program acceptance license. This group consists of 1 license category which is permission for a person to enter into the VRP rather than another Department program for oversight of the remediation.

(1) Voluntary program eligibility determination. This license is authorized and identified at A.R.S. 49-104(A)(17) and 49-282.05. 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. 49-104(A)(17) and 49-282.05. Table 20 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.

Group II. Voluntary program greenfields remediation license. This group consists of a remediation license issued by the Department's voluntary sites unit under the greenfields pilot program pursuant to A.R.S. §§ 49-153 through 49-157.

(2) Greenfields notice-to-proceed (NTP) approval. This license is authorized and identified at A.R.S. §§ 49-153 through 49-157. This license is not subject to sanctions because the Department collects no fees from applicants for its issuance. 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 at A.R.S. § 49-154(C) and require a Department-generated application form. Table 20 shows 5 business days (approximately 1 week) for the administrative completeness review time-frame and 5 business days (approximately 1 week) for the substantive review time-frame.

Group III. Voluntary program brownfields remediation license. This group consists of a remediation license issued by the Department's voluntary sites unit under the federal/state brownfields program.

(3) Voluntary program brownfields certification. This license is authorized and identified in the Governor's August 29, 1997 letter to the U.S.E.P.A. concerning the designation of the Department as a state environmental agency within the meaning of Section 198(c)(1)(C) of the federal Taxpayer Relief Act of 1997. 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 Section 198(c)(1)(C) of the federal Taxpayer Relief Act of 1997 and require a Department-generated application form. Table 20 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 21 business days for the substantive review time-frame.

The following categories were identified in the October 23, 1998, notice of proposed rulemaking but are deleted in today's rule.

Group IV. Voluntary program nonlandfill solid waste remediation licenses.

(4) Voluntary program WQARF remediation licenses. This group consists of remediation license categories identical to the categories of licenses issued under the WQARF program except that applicants apply to the VRP for review of the remediation application in exchange for a fee. This group is not included in today's rule. The Department will conduct additional analysis and public comment on how it should properly handle the distinction between quasi- and true volunteers.

(5) Voluntary program WQARF remedial investigation work plan approval. This license is authorized and identified at A.R.S. §§ 49-282.05, 49-282.06 and 49-287.03. 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 A.R.S. §§ 49-151, 49-152, 49-282.06 and 49-287.03 and A.A.C. R18-7-201 through R18-7-209 and require a Department-generated application form, site inspection and an initial fee. Application components are also identified at R18-7-108 and R18-7-109 which may be revised by a pending interim WQARF rule making. Table 20 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 63 business days (approximately 3 months) for the substantive review time-frame. If a public hearing is held the substantive review time is not increased because the hearing occurs concurrently with the other licensing activities.

(6) Voluntary program WQARF feasibility study work plan approval. This license is authorized and identified at A.R.S. §§ 49-282.05, 49-282.06 and 49-287.03. 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. Departmental approval of a baseline risk assessment is conducted as part of the feasibility study work plan approval. Application components are identified at A.R.S. §§ 49-151, 49-152, 49-282.06 and 49-287.03 and A.A.C. R18-7-201 through R18-7-209 and require a Department-generated application form, site inspection and an initial fee. Application components are also identified at R18-7-108 and R18-7-109 which may be revised by a pending interim WQARF rule making. Table 20 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 63 business days (approximately 3 months) for the substantive review time-frame. If a public hearing is held the substantive review time is not increased because the hearing occurs concurrently with the other licensing activities.

(7) Voluntary program WQARF standard remedial action plan (RAP) approval. This license is authorized and identified at A.R.S. §§ 49-282.05, 49-282.06 and 49-287.04. 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. Departmental approval of risk assessment-derived

Arizona Administrative Register
Notices of Final Rulemaking

cleanup levels or waiver of other regulatory or permit conditions is conducted as part of the RAP approval. Application components are identified at A.R.S. §§ 49-151, 49-152, 49-282.06 and 49-287.04 and A.A.C. R18-7-201 through R18-7-209 and require a Department-generated application form, site inspection and an initial fee. Application components are also identified at R18-7-108 and R18-7-109 which may be revised by a pending interim WQARF rule making. Table 20 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 105 business days (approximately 5 months) for the substantive review time-frame. If a public hearing is held the substantive review time is not increased because the hearing occurs concurrently with the other licensing activities.

(8) Voluntary program WQARF complex remedial action plan (RAP) approval. This license is authorized and identified at A.R.S. §§ 49-282.05, 49-282.06 and 49-287.04. 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. Departmental approval of risk assessment-derived cleanup levels or waiver of other regulatory or permit conditions is conducted as part of the RAP approval. Application components are identified at A.R.S. §§ 49-151, 49-152, 49-282.06 and 49-287.04 and A.A.C. R18-7-201 through R18-7-209 and require a Department-generated application form, site inspection and an initial fee. Application components are also identified at R18-7-108 and R18-7-109 which may be revised by a pending interim WQARF rule making. Table 20 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 146 business days (approximately 5 months) for the substantive review time-frame. If a public hearing is held the substantive review time is not increased because the hearing occurs concurrently with the other licensing activities.

(9) Voluntary program WQARF letter of completion. This license is authorized and identified at A.R.S. § 49-285(B). 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 statute at A.R.S. §§ 49-282.06, 49-285(B) and A.A.C. R18-7-201 through R18-7-209 and require a Department-generated application form, site inspection and an initial fee. Application components are also identified at R18-7-108 and R18-7-109 which may be revised by a pending interim WQARF rule making. Table 20 shows 42 business days (approximately 2 months) for the administrative completeness review time-frame and 84 business days (approximately 4 months) for the substantive review time-frame.

(10) Voluntary program WQARF 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 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 no public hearing is required. Application components are identified at R18-7-207 and require a Department-generated application form and an initial fee. Following the analysis and discussion under Table 10, license category 15 above, Table 20 shows 15 business days for administrative completeness review and 47 business days for substantive review.

(11) Voluntary program WQARF 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 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 no public hearing is required. Application components are identified in statute at A.R.S. § 49-152(C) and in rule at R18-7-207 and require a Department-generated application form and an initial fee. Following the analysis and discussion under Table 10, license category 16 above, Table 20 shows 15 business days for administrative completeness review and 27 business days for substantive review.

Group V. Voluntary program nonlandfill solid waste remediation licenses.

(12) Voluntary program standard nonlandfill solid waste remediation work plan approval. This license is authorized and identified at A.R.S. § 49-104(A)(17). 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 A.R.S. § 49-104(A)(17) and require a Department-generated application form, site inspection and an initial fee. Table 20 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 63 business days (approximately 3 months) for the substantive review time-frame.

(13) Voluntary program complex nonlandfill solid waste remediation work plan approval. This license is authorized and identified at A.R.S. § 49-104(A)(17). 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 A.R.S. § 49-104(A)(17) and require a Department-generated application form, site inspection and an initial fee. Table 20 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 84 business days (approximately 4 months) for the substantive review time-frame.

(14) Voluntary program nonlandfill solid waste VEMUR approval. This license is authorized and identified at A.R.S. §§ 49-104(A)(17) and 49-152(B) and is governed under A.A.C. R18-7-207. 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 R18-7-207 and require a Department-generated application form and an initial fee. Following the analysis pertaining to Table 10, license category 15 above, Table 20 shows 15 business days for the administrative completeness review time-frame and 47 business days for the substantive review time-frame.

(15) Voluntary program nonlandfill solid waste VEMUR cancellation approval. This license is authorized and identified at A.R.S. §§ 49-104(A)(17) and 49-152(C) and is governed under A.A.C. R18-7-207. 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 R18-7-207 and require a Department-generated application form and an initial fee. Following the analysis pertaining to Table 10, license category 15 above, Table 20 shows 15 business days for the administrative completeness review time-frame and 27 business days for the substantive review time-frame.

Group VI. Voluntary program special waste remediation licenses.

(16) Voluntary program standard special waste remediation work plan approval. This license is authorized and identified at A.R.S. § 49-104(A)(17). 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 A.R.S. § 49-104(A)(17) and require a Department-generated application form, site inspection and an initial fee. Table 20 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 63 business days (approximately 3 months) for the substantive review time-frame.

(17) Voluntary program complex special waste remediation work plan approval. This license is authorized and identified at A.R.S. § 49-104(A)(17). 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 A.R.S. § 49-104(A)(17) and require a Department-generated application form, site inspection and an initial fee. Table 20 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 84 business days (approximately 4 months) for the substantive review time-frame.

(18) Voluntary program special waste VEMUR approval. This license is authorized and identified at A.R.S. §§ 49-104(A)(17) and 49-152(B) and is governed under A.A.C. R18-7-207. 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 R18-7-207 and require a Department-generated application form and an initial fee. Following the analysis pertaining to Table 10, license category 15 above, Table 20 shows 15 business days for the administrative completeness review time-frame and 47 business days for the substantive review time-frame.

(19) Voluntary program special waste VEMUR cancellation approval. This license is authorized and identified at A.R.S. §§ 49-104(A)(17) and 49-152(C) and is governed under A.A.C. R18-7-207. 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 R18-7-207 and require a Department-generated application form and an initial fee. Following the analysis per-

Arizona Administrative Register
Notices of Final Rulemaking

taining to Table 10, license category 15 above, Table 20 shows 15 business days for the administrative completeness review time-frame and 27 business days for the substantive review time-frame.

Group VII. Voluntary program hazardous waste remediation licenses.

(20) Voluntary program standard hazardous waste remediation work plan approval. This license is authorized and identified at A.R.S. § 49-104(A)(17). 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 A.R.S. § 49-104(A)(17) and require a Department-generated application form, site inspection and an initial fee. Table 20 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 63 business days (approximately 3 months) for the substantive review time-frame.

(21) Voluntary program complex hazardous waste remediation work plan approval. This license is authorized and identified at A.R.S. § 49-104(A)(17). 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 A.R.S. § 49-104(A)(17) and require a Department-generated application form, site inspection and an initial fee. Table 20 shows 21 business days (approximately 1 month) for the administrative completeness review time-frame and 84 business days (approximately 4 months) for the substantive review time-frame.

(22) Voluntary program hazardous waste VEMUR approval. This license is authorized and identified at A.R.S. §§ 49-104(A)(17) and 49-152(B) and is governed under A.A.C. R18-7-207. 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 R18-7-207 and require a Department-generated application form and an initial fee. Following the analysis pertaining to Table 10, license category 15 above, Table 20 shows 15 business days for the administrative completeness review time-frame and 47 business days for the substantive review time-frame.

(23) Voluntary program hazardous waste VEMUR cancellation approval. This license is authorized and identified at A.R.S. §§ 49-104(A)(17) and 49-152(C) and is governed under A.A.C. R18-7-207. 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 R18-7-207 and require a Department-generated application form and an initial fee. Following the analysis pertaining to Table 10, license category 15 above, Table 20 shows 15 business days for the administrative completeness review time-frame and 27 business days for the substantive review time-frame.

Group VIII. Voluntary program leaking underground storage tank (LUST) remediation licenses. This group consists of remediation license categories identical to the categories of LUST licenses issued under the underground storage tanks program except that applicants are not under enforcement, are not seeking state assurance fund (SAF) reimbursement, and apply to the VRP for expedited review of the remediation application in exchange for a fee.

(24) Voluntary program standard LUST corrective action plan (CAP) approval with no public meeting. This license is authorized and identified at A.R.S. §§ 49-104(A)(17) and 49-1005. 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 meeting is not required. Application components are identified at A.R.S. § 49-1005 and require a Department-generated application form, site inspection and an initial fee. Table 20 shows 42 business days (approximately 2 months) for the administrative completeness review time-frame and 146 business days (approximately 7 months) for the substantive review time-frame.

(25) Voluntary program standard LUST corrective action plan (CAP) approval with a public meeting. This license is authorized and identified at A.R.S. §§ 49-104(A)(17) and 49-1005. 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 is required and a public meeting is required. Application components are identified at A.R.S. § 49-1005 and require a Department-generated application form, site inspection and an initial fee. Table 20 shows 42 business days (approximately 2 months) for the administrative completeness review time-frame and 209 business days (approximately 10 months) for the substantive review time-frame.

(26) Voluntary program complex LUST corrective action plan (CAP) approval with no public meeting. This license is authorized and identified at A.R.S. §§ 49-104(A)(17) and 49-1005. 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 meeting is not required. Application components are identified at A.R.S. § 49-1005 and require a Department-generated application form, site inspection and an initial fee. Table 20 shows 42 business days (approximately 2 months) for the administrative completeness review time-frame and 209 business days (approximately 10 months) for the substantive review time-frame.

(27) Voluntary program complex LUST corrective action plan (CAP) approval with a public meeting. This license is authorized and identified at A.R.S. §§ 49-104(A)(17) and 49-1005. 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 is required and a public meeting is required. Application components are identified at A.R.S. § 49-1005 and require a Department-generated application form, site inspection and an initial fee. Table 20 shows 42 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.

(28) Voluntary program LUST VEMUR approval. This license is authorized and identified at A.R.S. §§ 49-104(A)(17) and 49-152(B) and is governed under A.A.C. R18-7-207. 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 R18-7-207 and require a Department-generated application form and an initial fee. Following the analysis pertaining to Table 10, license category 15 above, Table 20 shows 15 business days for the administrative completeness review time-frame and 47 business days for the substantive review time-frame.

(29) Voluntary program LUST VEMUR cancellation approval. This license is authorized and identified at A.R.S. §§ 49-104(A)(17) and 49-152(C) and is governed under A.A.C. R18-7-207. 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 R18-7-207 and require a Department-generated application form and an initial fee. Following the analysis pertaining to Table 10, license category 15 above, Table 20 shows 15 business days for the administrative completeness review time-frame and 27 business days for the substantive review time-frame.

21) Table 21: Pollution Prevention Licenses

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

The Department issues the following license as part of the state pollution prevention program in accordance with A.R.S. §§ 49-961 through 49-973 and administered by the Department's Pollution Prevention Section of the Waste Programs Division. This license is subject to time-frame requirements.

(1) State agency hazardous waste generation level pre-approval. This license is authorized and identified at A.R.S. § 49-972(C). This license is not subject to sanctions because the Department does not collect a fee for the review of applications. 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. § 49-972(E). Table 21 shows 63 business days (approximately 3 months) for the administrative completeness review time-frame and 63 business days for the substantive review time-frame. The Department has no experience with this license as no applications have been received to date. The times are set to correspond to other pollution prevention plan licenses.

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

All other licenses issued by the Department's Pollution Prevention Section of the Waste Programs Division are not subject to Article 7.1 because they are granted by default should the Department not make a licensing decision within a fixed time.

22) Table 22: Multi-Program Licenses

Application for the following license requires review by more than 1 Department program. This license is subject to licensing time-frame requirements.

(1) Airport construction & expansion certificate (air & water). This license is authorized and identified at A.R.S. § 49-104. This license is not subject to sanctions because the Department does not collect a fee for the review of applications. This is a Model E license because substantive review of non-uniform application components is

Arizona Administrative Register
Notices of Final Rulemaking

required and a public hearing is not required. Application components are identified at 49 U.S.C. § 2208(7)(A). Table 22 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.

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

Not applicable.

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

Not applicable.

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

CONTENTS of this Summary:

A. Rule identification

B. EIS approach

C. Introduction and summary of impacts

D. Analysis of costs and benefits

- 1) Applicants (public and private)
- 2) Department (implementing agency)
- 3) Other entities
- 4) Employment and related impacts

E. Small business impacts and reductions

F. Data limitations

Table 1: Cost-effectiveness analysis: general summary of costs and benefits

G. Costs and benefits of specific rule provisions

A. Rule Identification

The Licensing Time-frames (LTF) rulemaking will be codified as follows in the A.A.C.:

- Title 18. Environmental Quality
- Chapter 1. Department of Environmental Quality - Administration
- Article 5. Licensing Time-frames

B. EIS Approach

The complete EIS is available through the Department. It consists of 7 parts (I - VII), 3 tables, 4 appendices, and several pages of literature references and comments. Examples of expected cost-saving benefits are included in Part V. Table 1, "Cost-Effectiveness Analysis: A General Summary of Costs and Benefits," which is the 1st of 3 tables, immediately follows Part VII. It presents a summary of the probable impacts of this rulemaking. Tables 2 and 3, which respectively present mitigation measures incorporated by this rulemaking and licensing processing elements expected to change or to remain the same, provide useful information to better understand LTF.

Relevant topics and theory have been introduced and included in this EIS, primarily in appendices. This was included as necessary background information. The following topics are summarized in Appendices A through D: economic development; market deficiency and environmental externalities; licensing theory; and government intervention. These topics are vital for understanding the economic, social, and political perspective of licensing and how it relates to government intervention.

Because many of the impacts are unquantifiable or unclear, this EIS represents a cost-effectiveness analysis, a subset of the more formal cost-benefit analysis. This alternative was used because the Department cannot monetize or quantify all impacts of this rulemaking. Although it cannot substantiate by what ratio probable benefits might exceed overall costs or when this might occur, it can show the relative impacts in terms of assigned monetary ranges.

C. Introduction and Summary of Impacts

Arizona Administrative Register
Notices of Final Rulemaking

Regulated entities have expressed their concerns about government agencies not processing license applications in a timely manner. Part of this concern is based on the fact that when license approvals are not made in a timely manner, it potentially can cost the regulated entities money. These costs can be a direct result of interest paid on borrowed monies, reduced competitive positions, sunk benefits from delayed or postponed construction or other operations, lost resources, and other political and economic costs. As a result, Article 7.1 was added by Laws 1996, Ch. 102 § 42, codified at A.R.S. §§ 41-1072 through 41-1078, becoming effective July 20, 1996, and amended by Laws 1998, Ch. 57, §§ 52-55. The principle is to secure accountability of state agencies to process applications within established time-frames.

The central issue, at least with the Department, is to provide regulated entities with certain assurances, described by the terms "clarity" and "certainty." For "clarity," it means the Department will identify what is required in license applications to entitle applicants to license approvals. For "certainty," it means that the Department will provide certain notifications to applicants and that their applications will either be denied or approved within the established time-frames by license category.

As a result of these assurances, there is a very likely probability that program efficiency will increase which will benefit both the Department and applicants. Improvements to make the Department's licensing process more efficient are expected to contribute to the overall potential for benefits to accrue. Together, these licensing controls and program improvements should provide direct, cost-saving benefits to regulated entities and secondary benefits to the general public.

Applicants are expected to experience impacts in varying degrees, but with little or no impact for many applicants. Except for the possibility that better prepared applications could result in licenses being issued in shorter times, the Department expects little or no impact to accrue to many applications submitted under LTF. However, the Department expects significant cost-saving benefits to accrue to several categories of licenses that previously would have been the applications classified as inadequate or pending, that is, applications unapprovable as submitted or incomplete due to lack of timely responses.

Applicants, including federal and state agencies, municipalities, and universities, who are applying for a variety of licenses, are expected to be primarily impacted by this rulemaking. Probably, the group of public entities most likely to be significantly impacted is the small- and medium-sized municipalities operating wastewater treatment plants and drinking water facilities. The Department expects these entities will have increased application costs as a result of preparing approvable applications for their initial submittal to the Department. "Approvable" application means a complete application with all components as required by statute or rule at the time the application is submitted to the Department. This also would include the application fee, as appropriate to the license category.

As a result of LTF and the numerous changes that must occur to the licensee-licensor relationship, the Department perceives that more pressure will be exerted on applicants, particularly at the front-end of the process. But the decrease in uncertainty over licensing requirements (clarity) and timely decisions by the Department (certainty) should help to off-set many of the potential negative consequences of the new scenario under LTF. The Department expects that the improved planning process necessitated by this rulemaking and the flexibility provided by the mitigation measures incorporated into LTF will generate these cost-saving benefits.

Other entities impacted include the Department (implementing agency), the consulting industry, and others directly involved in the preparation of applications and the license process. Secondary impacts, for example, include both costs and benefits upon the construction industry, consultants, engineers, and suppliers. Therefore, the Department expects these secondary impacts to occur to various sectors of the economy: manufacturing; construction; wholesale trade; finance, insurance, and real estate; transportation; government; and private households. Some of these sectors are expected to be impacted in an unquantifiable manner due to the multiplier effect. In the most basic terms, license applicants (private and public licensees), consultants, and the Department will be the primary entities directly impacted. However, as just indicated, other entities, such as private households, investors, suppliers, contractors, and consultants are expected to experience secondary impacts from the consequences of LTF. Again, consultants are included here, but under a different purpose; namely, the role of providing consultants' services for construction activities that must be undertaken sooner rather than later.

Private households, comprising the general public, are expected to experience secondary benefits under LTF. At least 3 benefits can be identified. First, the public, as well as the environment, is expected to benefit from a more efficient licensing process (license certainty and clarity). Part of increased efficiency may include better regulated emissions, and perhaps, less pollution overall. Second, the public also may benefit from the potential for permit conditions (pollution control devices/equipment and facility improvements) to be in place sooner rather than later. Although this may not represent an incremental benefit, it nevertheless could provide public health benefits. Third, the Department does not expect this rulemaking to create costs that would be passed-on to consumers, but if some entities do pass-on

costs, the impact probably should not be viewed as incremental, especially if it means expenditures were made sooner rather than later.

The Department has incurred costs due to implementing LTF. In addition to rule promulgation costs (representing sunk costs), the Department has developed and implemented a licensing tracking system. Other costs have included program assessments for improvements and changes to past and current procedures, public participation, training, and implementation. Some of these costs will be on-going as part of the licensing process, while others will represent one-time costs.

Expected program changes will result in certain benefits to the Department. For example, the Department will not continue to make repeated requests for information from applicants, including numerous requests for the same type of information. Grossly unapprovable applications must simply be denied. The Department expects this will create a moderate to substantial impact on certain applicants and a similar impact on resource savings for the Department. Other program changes are expected to bring about improved efficiency, such as improved workload management. Together, these changes are expected to diminish public dissatisfaction and improve employee satisfaction, thereby lowering turn-over a significant benefit.

The potential for cost-saving benefits, elevated program satisfaction, and improved quality of life, leading to increased utility, represent central goals that could be achieved by LTF. The preliminary conclusion by Department staff, following months of conducting public workshops, doing investigations, and talking with the regulated community, is that probable long-term benefits should outweigh probable costs of this rulemaking. Potential cost-saving benefits to applicants could reach several millions of dollars due to changes in the Department's licensing process. For example, a reduction in the time it takes an applicant to prepare an approvable application and subsequently be granted license approval could save a large number of hours for both in-house time and consultants' time. In addition, time-saving benefits may be directly translated into interest saved for some applicants. Thus, coupled with improved planning, the potential exists for applicants to save thousands of dollars on interest charges. This also applies to various advantages that may accrue due to starting business activities sooner as the result of an earlier licensing approval.

Based on information from a few commenters, it is very likely that long-term benefits could exceed costs by a ratio of 10:1, which in actuality, may be more or less than this ratio. But these benefits are expected to accrue gradually at an increasing rate. Thus, costs initially may exceed short-term benefits for an unknown time-frame. The Department expects that the mitigating factors will likely shorten the time lag when probable benefits exceed probable costs under LTF.

D. Analysis of Costs and Benefits

Table 1 presents a general summary of costs and benefits of this rulemaking. This table is not intended to show how much benefits are expected to exceed costs or at what point in time. For example, many cost-saving benefits expected to accrue to applicants may not occur in the short term. Applicants may initially face increased costs, but eventually benefits are expected to exceed all costs, both Department and applicant costs. This same table appears in the complete EIS

1) Applicants (Public and Private)

LTF establishes new application standards and procedures that will impact applicants in varying degrees (both private and public). For example, it places increased and new obligations upon licensees, such as submitting an approvable application up-front, that is, on the initial day with the appropriate fee. But these requirements should not be viewed as restrictive or overburdening because they have the potential to facilitate opportunities for cost-saving benefits to accrue to many applicants. However, this is not expected without a significant increase in costs to some applicants and the Department as well. Moreover, not all benefits will accrue automatically or even equally to all applicants. The impact of these measures represents cost-saving benefits to applicants.

The impact to applicants, mainly private businesses, could be significant although many applicants may not notice much of an impact. For instance, timely licensing decisions will continue to be made by the various Department programs. In some cases, the time from application preparation to approval could be shortened from historical averages. For some of these applicants, the time spent preparing an approvable application could be reduced, thereby representing a significant cost-saving benefit. However, no matter what the impact may be, it is the applicant's responsibility to submit a complete and approvable application up-front. If an applicant does not do this or does not comply with a request for additional information, the application probably must be denied. This could lead to a re-submitted application and additional fee or to compliance or enforcement action.

On the negative side, some applicants could be impacted in a detrimental way. These could be applicants unable or unwilling to comply with the new application standards and procedures. For example, a few applicants may encounter increased costs for application preparation. These costs could accrue from increased in-house costs, but most

likely they could accrue from a perceived need to hire consultants to prepare approvable applications. Additionally, an unknown number of applicants could be faced with application denials, re-submittal fees, enforcement actions, and other negative impacts that could result in lost time, and perhaps, lost opportunities for them.

LTF's potential impact on applications that are already pending with the Department on the effective date of this rule-making is noteworthy. This rulemaking will apply only prospectively: applications received after the effective date of the rules will be subject to the time-frames and processing requirements provided in the rule provisions. LTF will not apply to applications that are pending with the Department prior to this rulemaking's effective date. Rule provisions do provide an opportunity for applicants with already pending applications to enter into opt-in agreements and thereby become subject to LTF.

An analysis of the already received applications that have been pending for any length of time indicates that causes of delay have been those already described in greater detail in the preamble. For example, the causes of delay could include the following: incomplete applications that were submitted initially, applicants that have failed to respond to requests for additional information or data, or disputes between the Department and the applicant about whether a certain application component is required or not. For some applicants with already pending applications, the delays that have occurred in the permitting process have operated to delay expenditures for application components and, ultimately, for the capital expenditures necessary to bring a facility into compliance with the license.

While LTF does not strictly apply to these existing applications, the Department must nevertheless treat all applicants (those subject to LTF and those not) in a reasonably consistent way. Therefore, the reasons for delay that will no longer be allowed to exist under the LTF statutes and rules, will have to be eliminated by practice of the Department as it addresses existing applications. Additionally, the Department expects that some entities in the future probably will have to incur capital expenditures sooner rather than later.

Several commenters have estimated that this rulemaking can potentially save significant costs to them during the application process. For example, 1 environmental manager estimated that 30% may represent a typical savings on license applications under LTF. This estimate was based on a mining expansion project which required an aquifer protection permit (APP) that potentially could have saved nearly \$100,000 if license requirements would have been more clearly defined and the review process better managed. The conclusion is that when application requirements are unclear and the process is inefficient, a variety of costs increase such as opportunity, consulting, staff time, legal, and engineering, procurement, and construction management.

Another example cited by a commenter is that at least 90 hours per application could be saved under this rulemaking for certain categories. This estimate is based on hourly time savings for preparing the application and responding to application deficiencies. Applying an hourly rate of \$100 to \$200 per hour, equates to a savings of \$9,000 to \$18,000 per application. Therefore, 1,000 applicants potentially could save \$9 to \$18 million. The amount of savings will vary by category of application and other qualifications. For instance, a commenter said that "thousands of hours" could be spent on certain categories of licenses. Thus, some license categories could save considerably more time than the 90-hour average just cited. But another way to view application savings is to look at an overall reduction in costs. For example, some commenters suggested that as much as 10% in overall application costs could be saved under LTF.

The conclusion drawn from these illustrations is that even a relatively small savings per application could translate into enormous savings across the 8,500 to 11,000 annual universe of applicants, easily representing millions of dollars in benefits. Thus, if an average application savings would turn out to be 90 hours per application, an overall savings for only 8,500 applicants, at a rate as low as \$100 per hour, would be \$76.5 million. Using a greater hourly rate or applying a greater amount of time saved per application could increase the amount of savings proportionately.

2) Department (Implementing Agency)

The Department expects to make (and is currently making) pervasive program changes as a result of this rule making. These changes, which mainly pertain to licensing processing procedures, will result in potential costs and benefits to accrue to many businesses applying for licenses. A couple of important changes include implementing a variety of efficiency measures and improved program management due to the new tracking system. Furthermore, the Department perceives that applicant benefits can be enhanced by minimizing application denials and assisting applicants to correct deficiencies. These benefits are expected to be increased by the mitigating measures incorporated into LTF. These measures were designed to increase applicant flexibility. Any reduction in applicant flexibility must result in decreased benefits and a lower cost-benefit ratio than anticipated. In addition, benefits may be accomplished through pre-application help, compliance assistance, and other outreach activities.

Department staff expects the various program changes which will need to be made as a result of LTF, and the 5 anticipated changes identified below will generate cost-saving benefits to many applicants, despite the potential for some applicants' times and costs to substantially increase in order to prepare an approvable application up-front.

Arizona Administrative Register
Notices of Final Rulemaking

1. Receiving a licensing decision within a known time-frame (certainty),
2. Knowing for certain what application components will be required, as specified in statutes or rules (clarity),
3. Approving a greater volume of applications within traditional time-frames and not maintaining a pending application status,
4. Approving or denying applications for some licenses in shorter times than traditionally has been the case, and
5. Correcting defective applications sooner and enabling initial applications to be administratively complete and approvable with minor or no additional information required.

As a result of these changes, reduced delays and time spent on preparing applications (including both in-house time and consultants' time) are expected to decrease across several license categories, although not all categories. Collectively, this change has the potential to generate millions of dollars in savings to several categories of applicants.

This rulemaking will impose costs upon the Department. In addition to the opportunity cost of promulgating this rule (representing a sunk cost), specific elements include the following: developing and implementing a tracking system; performing training; providing applicant assistance and education; sending notifications to applicants; and doing other activities, such as appeals, compliance, and enforcement. The add-on component to the Arizona Unified Repository for the Informational Tracking of the Environment (AZURITE) was developed at an approximate cost of \$175,000.

Furthermore, Department staff anticipates it will need additional resources to effectively implement this rule. A Central Data Management Group (CDMG) has been established. The CDMG is the core system for managing applications. This group will record events and send notifications. This includes starting and stopping time-frame clocks. Even though some applicant notifications previously were issued by program staff, the new requirements mandated by this rule will make these notifications vital to the proper management of applicants. Thus, this is considered an incremental cost to the Department. However, improved management will help to off-set these costs.

Many Department costs are expected to be off-set somewhat by benefits accruing from improved workload management and increased efficiency of the programs. Department staff expects various program changes to bring about increased efficiency, including reduced review times per application for some categories of licenses. This is an expected result of applicants submitting approvable applications up-front. Refer to Table 1.

Sanctions could be imposed if the Department fails to make timely licensing decisions by not denying or approving licenses within the set time-frames. Sanction costs include the following: refunds of review fees paid, excusals of further licensing fees, and payments of 1 percent of the fees to the state general fund each month decisions are not made on applications. A direct result of sanctions could be a reduction of staff if funding is reduced for those programs that would be most negatively impacted by sanctions. However, Department staff expects the potential for sanctions to be less than 1/2 of 1% of all applications subject to sanctions. This goal is based on the refund rate experienced by a similar law in effect in Massachusetts since 1991, but which only applies to its department of environmental protection.

3) Other Entities

The Department also expects these changes to generate costs and benefits both directly and indirectly to the consulting industry as previously explained. Although decreased revenues potentially could occur for the consulting industry due to reduced times necessary to prepare approvable applications or to cure defective applications, any losses are expected to be off-set by the increased demand for consulting services by other businesses or political subdivisions. The proportion of this offset is unknown at this time. Other indirect impacts also are expected for many of the entities previously identified.

Political subdivision applicants (municipalities or counties) likely will incur increased costs for submitting higher quality applications or face increased costs of denials, and perhaps, enforcement activities. The impacts to this group, as well as other public entities, are included with the impacts to all applicants. Some entities may have to hire additional staff and secure consultants' services.

Some long-term, indirect benefits could accrue to the general public without any anticipated costs. For example, potential benefits could accrue to the public as a result of avoided health incidents and averted environmental damages. This could result from the Department approving certain applications more quickly and applicants correcting defective applications sooner to make them approvable. The overall result could lead to lowered emissions and discharges by certain businesses that would come into compliance sooner rather than later. It also would mean adhering to all licensing restrictions. A caveat, however, is that part of these benefits could be contingent upon certain businesses doing things in a more timely manner than historically may have been the case. Examples would include the following: detecting problems earlier, installing pollution control equipment sooner, and performing adequate monitoring. Some of these potential benefits would not be considered incremental.

4) Employment and Related Impacts

The expected impact of LTF upon employment, revenues, and payroll expenditures (both public and private), as well as the probable effect on state revenues, is summarized here. Because LTF is expected to create a more formalized licensing process and to create additional pressure on applicants, the Department expects it will create a need for additional employee involvement in preparing approvable applications, as well as increased use of consultants' time. To what extent new employees will be added is unknown. A possibility for some entities would be to use employees not normally involved in the application process. Another option would be to contract with consultants to prepare applications or to assist with the preparation.

Even though the possibility does exist for cost savings in total hours spent preparing applications, and hence 1 impact would be reduced consultants' time, the Department actually expects the net use of consultants time to increase. It is unknown how the response will differ between private and public entities. However, as indicated in this EIS, some political subdivisions could be adversely impacted by the new licensor-licensee process. The most likely response may be to increase the practice of using consultants. Thus, for some entities, expenditures may increase, but the potential exists for such costs to be more cost-effective.

Overall, this rule is expected to reduce costs and provide cost-saving benefits to many applicants. Thus, revenues actually could be conserved by many entities. The need for hiring consultants, however, is likely to increase expenditures by many entities with a corresponding increase in revenues going to consultants. Depending upon the actual demand, some consultants may have to hire new employees. The conclusion is that this rule should have a positive impact on the economy, particularly if one considers the potential impact of the multiplier effect on the various sectors of the economy (called secondary or indirect impacts).

The Department has used considerable resources to develop, promulgate, and implement this rule. In addition, it has requested additional full-time employee equivalents (FTEs) and equipment in fiscal years 2000 and 2001 to effectively implement this rule. It will be funded from the state general fund. Although past expenditures not only to develop this rule, but to develop the tracking system and to perform training and other related activities may be viewed as sunk costs as far as social impacts are concerned, once this rule is effective, the costs to process applications will become real costs to this agency. Refer to Table 1.

Some of these costs will be off-set by improvements and efficiency measures incorporated into the programs. However, the FTE costs, and other related costs, are needed to effectively implement LTF. The net cost to the Department, which is unknown at this time, only would be those costs associated with this rulemaking less the costs associated with the prior licensing process. Some of the Department costs may not be directly attributable to this rulemaking because additional employees may have been needed to effectively review applications. Hence, prior "underfunding" issues may cloud this issue, especially in light of the increasing demand for application reviewers in some programs.

E. Small Business Impacts and Reductions

Small business is defined in statute as an independently owned and operated concern, including its affiliates, which is not dominant in its field and that employs fewer than 100 FTEs or which had gross annual receipts < \$4,000,000 in its last fiscal year (A.R.S. § 41-1001(20)). Considering the fact that the majority of business employ fewer than 100 employees, most of the entities impacted by this rulemaking could be classified as small businesses. However, considering the other criteria, this proportion would decrease by some unknown amount, but it would include the majority of businesses.

The Department is sensitive to the concerns of small businesses and the impact this rulemaking could have upon them. Accordingly, the Department has considered each of the methods prescribed in A.R.S. § 41-1035 for reducing the impact on small businesses. Likewise, the Department has considered each of the methods prescribed in A.R.S. § 41-1055(B)(5)(c). For example, A.R.S. §41-1035 requires agencies implementing rules to reduce the impacts on small businesses by using certain methods where legal and feasible. Methods that may be used include the following: (1) Exempt them from any or all rule requirements, (2) Establish performance standards which would replace any design or operational standards, or (3) Institute reduced compliance or reporting requirements. The latter method could be accomplished by establishing less stringent requirements, consolidating or simplifying them, or by setting less stringent schedules or deadlines. Refer to the proposed rule in *Arizona Administrative Register*, vol. 4, # 43 (October 23, 1998), pp. 3112-3114, for a description of the rule impact reduction analysis that was previously performed.

The Department could not provide additional regulatory relief for small businesses beyond what has been established for all applicants. The Department has no authority to exempt a small business, or even establish a less stringent standard or schedule for this class. Finally, all of the cost-saving benefits incorporated into this rulemaking are equally available to all entities, and not just large businesses.

F. Data Limitations

Arizona Administrative Register
Notices of Final Rulemaking

The Department has evaluated information from commenters. In addition, applicants were contacted and asked about costs and benefits. Although anecdotal illustrations have been included, the Department found it difficult to quantify all of the impacts upon the various entities. Table 1, "Cost-Effectiveness Analysis: General Summary of Costs and Benefits," which follows, identifies the wide variety of impacts and indicates these potential impacts by dollar ranges. Some applicants may not be impacted, particularly those that submit a complete and approvable application up-front, but others may be significantly impacted. One concern to some applicants may be the potential for a loss of their shield from enforcement, such as APP and hazardous waste applicants.

Other than anecdotal illustrations and comments from participants in the rulemaking process, the Department has been unable to secure adequate data for a complete evaluation of costs and benefits. Nonetheless, the Department has identified certain areas which could generate both cost-saving benefits and increased compliance costs for many applicants. The Department's overall conclusion is that "clarity" and "certainty" will generate significant savings to applicants. Examples show that many hours of in-house time and consultants' time could be saved in preparing better applications. Although several cost-saving benefits have been derived in this EIS, the Department is unsure of what the average savings per application actually might be in the future. Additionally, the Department neither can predict what saving might accrue to the Department nor what the amount of sanctions might be as a result of LTF.

Table 1. Cost-Effectiveness Analysis: General Summary of Costs and Benefits

Arizona Administrative Register
Notices of Final Rulemaking

<p>CONSULTANTS</p> <p>Although decreased revenues potentially could occur due to less time spent preparing applications, the net effect is expected to be increased revenues from additional clients</p> <p>Increased risk for applicants being denied</p>	<p>Substantial</p> <p>Unquantifiable</p>	<p>Substantial</p>
<p>Total Net Cost or Benefit</p>	<p>Substantial</p>	<p>Substantial</p>

KEY: Minimal < \$250,000; Moderate \$250,000 - 1,000,000; Substantial > \$1,000,000.

G. Costs and Benefits of Specific Mitigation Measures in the Rule.

This summary was presented in October 23, 1998, notice of proposed rulemaking at §8(C) and contains analyses of the impacts to costs and benefits should certain provisions be altered or deleted. The EIS was prepared upon the assumption that all the following mitigation impacts contained in the rule for the benefit of applicants would be in place. The Department stated that it believed that deletion or substantial change to these mitigation measures would require reanalysis of the EIS.

Mitigation contained in the proposed rule, but not specifically identified in the LTF statute, included the following measures. The Department believed that the deletion of any would cause the cost-benefit analysis to tip adversely in regards to applicants and the other non-Departmental primary and secondary impacts identified above.

1) Pre-application and changed application agreements. These provisions were shown at R18-1-508 and R18-1-511 and provide mechanisms to allow a certain degree of flexibility by applicants to adjust their application proposals to the constraints of the licensing requirement process. The Department believed that deletion of these provisions would result in a small net decrease in costs to the Department and a substantial net increase to applicants. This increase included the payment of additional application fees due upon refiling, the expenditure of additional time on 1 or more subsequent applications, and the delay in obtaining the desired license.

These provisions remained unchanged in today's rule.

2) Reactivated and opt-in application agreements. These provisions were shown at R18-1-512 and R18-1-513 and provided mechanisms to allow applicants certain opportunities to subject the remaining term of their applications to this rule. The Department was not certain what the exact costs and benefits of these provisions were in isolation. These provisions were included in the proposed rule due to numerous requests made at public workshops on this rule that they be included. In operation, applicants would enter into them only if they believed it advantageous to do so. This means that applicants would believe the provisions to offer positive cost-benefit results. For this reason, The Department believed that deletion of these provisions would be perceived by applicants as resulting in a small net decrease in costs to the Department and a substantial net increase to applicants. This increase included the delay in obtaining the desired license.

The opt-in agreement remains in today's rule but not the reactivation agreement. The reactivation agreement is deleted because all lapse provisions have been deleted from the rule. The Department does not believe this to be a substantial change.

3) Suspension of time-frames pending payment of fees or receipt of applicant's signature. These provisions were shown at R18-1-514 and provided a mechanism to allow these required application components to be submitted outside the administrative completeness review time-frame. This allowed the Department to harmonize licensing time-frames statutory requirements with other statutory requirements of various licensing programs. The requirements imposed on applicants were required to occur after the Department, in effect, had made its actual licensing decision but before it might make the licensing decision final and effective. The Department believed that deletion of these provisions would result in a small net decrease in costs to the Department and a substantial net increase to applicants. This increase included either the extension of all licensing time-frames for all affected categories to allow these required end-of-review activities to take place while the clock is running or the discouragement of applicants from submitting application proposals that might invoke these requirements.

These provisions are deleted from today's rule because GRRC has determined that these provisions are not within the Department's authority to promulgate. This results in an unavoidable net increase in costs to applicants.

4) Suspension of time-frames due to a changed application. This provision was shown at R18-1-515 in the proposed rule and provided a mechanism to allow a certain degree of flexibility by applicants to adjust their application

proposals to the constraints of the licensing requirement process. The Department believed that deletion of this provision would result in a small net decrease in costs to the Department and a substantial net increase to applicants. This increase included the payment of additional application fees due upon refiling, the expenditure of additional time on 1 or more subsequent applications, and the delay in obtaining the desired license. The alternative was to deny and require the applicant to resubmit a new application as now revised by the applicant.

These provisions are deleted from today's rule because GRRC has determined that these provisions are not within the Department's authority to promulgate. This results in an unavoidable net increase in costs to applicants.

5) Reassignment of license category. This provision was shown at R18-1-516 in the proposed rule and provided a mechanism to allow a certain degree of flexibility by applicants in choosing which license category to begin the processing of an application subject to licensing time-frames. This provision allowed the Department to correct and shift the identification of the proper category for each application so that the applicant is not required to withdraw and resubmit in a category different from the 1 initially selected. The Department believed that deletion of this provision will result in a small net decrease in costs to the Department and a substantial net increase to applicants. This increase included the payment of additional application fees due upon refiling, the expenditure of additional time on 1 or more subsequent applications, and the delay in obtaining the desired license.

This provision remains in today's rule.

6) Application lapse, withdrawal, and lapse date extension request. These provisions were shown at R18-1-517 and provided mechanisms to allow a certain degree of flexibility by applicants to adjust their application proposals to the constraints of the licensing requirement process and to provide certainty in the resolution of late applicant response sufficient to allow the Department to decrease many of the licensing time-frames shown in this proposed rule. The Department believed that deletion of these provisions would result in a small net decrease in costs to the Department and a substantial net increase to applicants. This increase included the payment of additional application fees due upon refiling, the expenditure of additional time on 1 or more subsequent applications, and the delay in obtaining the desired license. In addition, deletion would require the Department to extend the time-frame periods for most of the categories shown in this proposed rule in order for the Department to relearn application proposals when an applicant is so late in its response that the Department would not be likely to recall or otherwise be able to make use of review work already done but must redo some or all of the review work in order to get back up to speed on the application. The Department currently has certain applications still pending after more than 20 years after issuing requests for additional information.

These provisions are deleted from today's rule because GRRC has determined that these provisions are not within the Department's authority to promulgate. This results in an unavoidable net increase in costs to applicants. The Department has not extended time-frames in response to this deletion and, upon reconsideration, the Department now understands that it must continue to review applications in suspension to determine when an applicant has failed to respond for such a long time, that the submission of a response now (and resumption of the time-frames) is not longer feasible for the reasons sated above. The Department must now take steps to issue licensing decisions (to deny) rather than continue to wait for a reply.

7) Emergencies and upset conditions. This provision was shown at R18-1-518 in the proposed rule and provided a mechanism to allow the Department to reduce licensing time-frame periods for most categories. This is because this provision reduced Department risk in anticipating certain events outside its control. In this regard, other statutes required the Department to shift its risks to applicants either due to legal fiduciary requirements inherent in fee-funded programs or the general limitations imposed by the public finance statutes. For example, state law required an agency to take certain steps to preserve state monies. For fee-funded programs, this also included the preservation of fee collection in order to fund the ongoing operation of the program for the benefit of future applicants. The Department had identified applicants as the primary beneficiary of this provision in that in exchange for the Department having the ability to maintain the viability of programs and protect them from unavoidable and automatic refunds during emergency periods, applicants would receive shorter review times overall, have increased assurance that a licensing program will survive an emergency situation and, therefore, be available to issue licenses to them in future, and know that an emergency will not cripple a program to such an extent that pending licenses will not be issued even after the emergency is over due to forced closing of the program caused by exhaustion of resources through automatic refunds. The Department believed that deletion of this provision would result in a small net decrease in costs to the Department and a substantial net increase to applicants. This increase includes the delay in obtaining the desired license.

The Department stated that it believed that the alternative to this provision was to extend all license review times so as to reduce risk of late review due to circumstances beyond the control of the Department. In some cases, this would mean significant time extensions such as for all categories requiring site inspections. It is not unusual that certain sites are inaccessible for weeks or months due to snow or other weather or accessibility difficulties. Also, the Department

Arizona Administrative Register
Notices of Final Rulemaking

could not anticipate how often or to what extent the governor might declare emergencies requiring virtually all personal in a particular program to shift from application review activities to pollution control emergency activities. Failure to extend the times would mean certain program failure at some future unknown time when such emergencies, in fact, occurred and the program would be thereby prevented from continuing timely application review. The inevitable result would be automatic refunds, financial failure of the program, and a resulting inability to provide further licensing or enforcement activity from that point forward until funding is restored from outside sources. The Department expected the EIS to show that the cost to applicants will be far greater without this provision than with the provision.

This provision remains substantially unchanged in today's rule except for some adjustment in the causes identified as justifying the use of the provisions. The Department believes the net effect to be substantially the same.

8) Notice of intent to rely on the application components as submitted. This provision was shown at R18-1-520 in the proposed rule and provided a mechanism to allow a certain degree of flexibility by applicants to adjust their application proposals to the constraints of the licensing requirement process. This provision provided a short licensing time-frame suspension whenever an applicant wished formally to dispute the legality of a Department request for more information. This additional time would be then used to evaluate the merits of the applicant's formal protest. This additional review time was not factored into the standard licensing time-frame periods shown in the proposed rule. The Department believed that such additional time should rightly be borne only by applicants making such a formal protest and should not be imposed on all applicants prospectively whether they ever make such a protest or not. The Department believed that deletion of this provision would result in a small net decrease in costs to the Department and a substantial net increase to applicants. This increase included the delay in obtaining the desired license by increasing all licensing time-frame periods to anticipate the possibility that such additional review activity by the Department might be necessary. Failure to increase the times might force the Department to deny applications whenever such a protest was made if only because there would no longer be sufficient time to resolve both the protest and the application. Because resolution of the protest must take precedence, insufficient time might remain to complete an adequate review of the application resulting inevitably in increased denials. Deletion of this provision would impose additional costs on applicants including the payment of additional application fees due upon refiling, the expenditure of additional time on 1 or more subsequent applications, and the delay in obtaining the desired license.

This provision remains essentially unchanged in today's rule.

9) Notice of intent to rely on the license category. This provision was shown at R18-1-521 in the proposed rule and provided a mechanism to allow a certain degree of flexibility by applicants to adjust their application proposals to the constraints of the licensing requirement process. This provision, in effect, responded to a type of pre-packaged time-frames extension agreement subject to applicant veto. The absence of this provision would require the deletion of the Department's ability to change an applicant's category and thus would increase the pressure to deny unapprovable applications at a higher rate than would otherwise be the case. This pressure could be reduced only by a corresponding extension of most licensing time-frame periods in the proposed rule to anticipate the possibility of this situation. For those licenses with paired standard-complex and with-without a public hearing, deletion would require all licensing time-frame periods to be set to the longest time now shown in order to accommodate the possibility for their need. The Department believed that deletion of this provision would result in a small net decrease in costs to the Department and a substantial net increase to applicants. This increase included the payment of additional application fees due upon refiling, the expenditure of additional time on 1 or more subsequent applications, and the delay in obtaining the desired license.

This provision remains essentially unchanged in today's rule.

10) Licensing time-frame periods. These provisions were shown on the license tables in the proposed rule. The times had been set using a variety of rationales depending upon the specific needs of each program and license category but, generally, the following concept dominated the decision making process: The Department should set the times as short as possible while at the same time set the times long enough to allow a reasonable degree of applicant flexibility to correct deficiencies without having to start over.

The Department had subjected this concept and draft review times to 30 half-day informal public workshops in Phoenix, Tucson, Flagstaff, Show Low, Cottonwood, Bullhead City, and Yuma prior to fixing the times shown in the proposed rule. The workshops were moderated by third-party facilitators contracted by the Department for this purpose. The results of the workshops showed public unease over time-frames set too short to allow reasonable opportunities to cure unapprovable applications prior to expiration. This was especially evident in all categories with time shown over 90 days.

The 1 significant exception to this was the underground storage tank (UST) corrective action plan (CAP) approvals shown on Table 18. Here, public comment was that times must be shortened significantly. In response, the UST program reevaluated its rationale and reduced the time shown. Those reductions shown were due to additional funding

Arizona Administrative Register
Notices of Final Rulemaking

for review activities that had occurred since the times in the draft table were originally announced. One other area of objections raised concerning times believed to be too long concerned the aquifer protection permit (APP) program. Here, however, comment was extremely mixed with far more vigorous requests made that times not be shortened.

The most significant general response given the Department during the workshops was a desire by the public for the Department to offer reasonably long times now and later to revisit the issue when the Department processes annual housekeeping rule makings on the rule. The reasons given for this included concern that the department be forced into time so short that denials increased over current experience or that programs become financially compromised due to significant refund payments.

The tables remain essentially unchanged in today's rule.

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

Table of Contents is revised as follows:

R18-1-501. Definitions

R18-1-502. Applicability; Effective Date

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

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

R18-1-505. Overall Time-frame ~~Clock~~ Operation

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

R18-1-507. Ending of Time-frames ~~Time-frame Clocks~~; Licensing Decisions; ~~Lapse~~; Withdrawal; Notice of Licensing Time-frames Nonapplicability; ~~Ending of Time-frames~~

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

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

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

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

R18-1-512. Reserved ~~Licensing Time-frames Reactivated Agreements~~

R18-1-513. Licensing Time-frames Opt-in Agreements

R18-1-514. Reserved ~~Suspension of Time-frames Pending Payment of Fees or Receipt of Applicant's Signature~~

R18-1-515. Reserved ~~Suspension of Time-frames Due to a Changed Application~~

R18-1-516. Reassignment of License Category

R18-1-517. Application ~~Lapse and Withdrawal;~~ ~~Lapse Date Extension Request~~

R18-1-518. Emergencies ~~and Upset Conditions~~

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

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

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

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

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

R18-1-524. Site Inspections

R18-1-525. Licensing Time-frames; Application Components ~~License Tables~~

Indenting of the tables is deleted. This means that the Tables are appended directly to Article 5 and not just to R18-1-525. This corrects a typographical error in the October 23, 1998, notice of proposed rulemaking.

A new table is added:

Table 6-E. Wastewater Construction Licenses Issued by the Enforcement Unit

Arizona Administrative Register
Notices of Final Rulemaking

The titles of the following tables are revised:

- Table 7. Subdivision Sanitary Facility Construction Licenses Issued by the Phoenix Office
- Table 7-N. Subdivision Sanitary Facility Construction Licenses Issued by the Northern Regional Office
- Table 7-S. Subdivision Sanitary Facility Construction Licenses Issued by the Southern Regional Office
- ...
- Table 15. Reserved~~This table reserved.~~

R18-1-501, "Definitions," is revised for clarity, conciseness, and understanding as follows:

1. "Administrative completeness" ~~or "administratively complete"~~ means Department receipt of all application components required by statute or rule and necessary to enable this Article sufficient to allow the Department to issue a notice of administrative completeness under A.R.S. § 41-1074 and thereby end the administrative completeness review time-frame clock and start the substantive review time-frame clock ~~but does not mean statutory administrative completeness.~~
2. "Administrative completeness review" means the process of clerical verification by the Department to determine whether that the submitted application components meet the requirements of administrative completeness.
3. "Administrative completeness review time frame" has the meaning prescribed in A.R.S. § 41-1072(1). ~~The Department interprets this term to mean the entire period after Department receipt of an applicant's first acceptable application component submittal under R18-1-503(A) until the starting of the substantive review time frame but does not mean a statutory administrative completeness review time frame.~~
4. "Administrative completeness review time frame clock" ~~means the counting and assignment of certain days within the administrative completeness review licensing time frame under A.R.S. § 41-1074.~~
35. "Applicant" means the person who requests the Department to issue ~~applies for~~ a license.
46. "Applicant response" means a written response from the applicant to a Department notice that complies with all the following:
 - a. The response identifies the applicant.
 - b. The response identifies the Department notice.
 - c. The response is addressed to the Department employee identified in the Department notice as the designated recipient of the notice.
 - d. The response contains the required information identified in the Department notice or the response contains a notice under R18-1-520 to rely on the application components as submitted.
57. "Application" means a request to the Department to issue a license to the requestor when that request is in writing and complies with ~~made under~~ R18-1-502 and R18-1-503(A).
68. "Application clerk" means a Department employee with authority to receive applications for the specific license identified on the submitted application component or applicant response.
79. "Application component" means a document, other written information, or fee required by statute or rule and submitted to the Department in support of an application.
8. "Companion category" means 1 of an association of 2 or more consecutive categories, shown on the license tables with paired license names, and containing a distinction between "standard" and "complex," between "without a public hearing" and "with a public hearing, or "without a public meeting" and "with a public meeting."
940. "Complex" means an application category that requires a significant increase in Department application review resources in excess of applications processed in a companion standard application proposals in the same category due to the size, novelty, complexity, or technical difficulty expressed in the application proposal.
10. "Comprehensive request for additional information" means a Department notification made after the administrative completeness review time-frame and that:
 - a. Contains a list of information required by statute or rule and necessary before the Department may grant the license; and
 - b. Suspends the running of days within the time-frames.
11. "Day" means business day and excludes Saturdays, Sundays, and state holidays.
12. "Department notification" or "Department notice" means written communication by the Department to an applicant in person or at the mailing or electronic address identified on the application. The Department may notify the applicant at the applicant's electronic address only if the applicant provides that address as part of an application component. The notification is effective:
 - a. If mailed, on the date of its postmark.
 - b. If delivered in person by a Department employee or agent, on the date of delivery.
 - c. If delivered electronically, on the date of delivery to the electronic address.

Arizona Administrative Register
Notices of Final Rulemaking

13. "Department receipt" of an application component or an applicant response means 1 of the following days, whichever is later:
 - a. If the component or response is handed to an application clerk by the applicant, the day of actual receipt by the application clerk.
 - b. If the component or response is mailed, 5 days after a postmark identifying mailing date.
 - c. If the Department notifies the applicant within 5 days after the date of actual receipt, the day of actual receipt of the component or response by the application clerk.
 - d. If during an application moratorium or time-frame suspension declared under R18-1-518, the day after the moratorium or suspension ends.
14. "Electronic address" means either a telephone number for facsimile document communication (fax) or an electronic mail (e-mail) address. "Electronic address" does not mean a telephone number for voice or TDD (telephone device for the deaf) communication.
15. "Fee excusal" means the sanction imposed on a Department fund under A.R.S. § 41-1077(A) that requires the Department to excuse further fees required from the applicant by the Department.
16. "Initial fee" means that part of the fee required to be submitted under R18-1-503(A).
- ~~17. "Lapsed application" means an application that has ceased to be subject to this Article due to the applicant's failure to submit a timely response to a Department notification made under this Article.~~
- ~~17~~¹⁸. "License category" means a numbered category identified on a license table.
- ~~18~~¹⁹. "License table" means a table within this Article.
- ~~19~~²⁰. "Licensing time-frame" means any of the time-frames identified in A.R.S. §§ 41-1072 through ~~41-1079~~⁴¹⁻¹⁰⁷⁸, the operation of which require the Department to report its compliance level for overall time-frames to the Governor's Regulatory Review Council under A.R.S. § 41-1078(A).
- ~~20~~²¹. "Licensing time-frame agreement" means an agreement made under any of the sections R18-1-508 through R18-1-513.
- ~~22. "Overall time frame" has the meaning prescribed in A.R.S. § 41-1072(2). The Department interprets this term to mean the entire period from Department receipt of an applicant's first acceptable application component submittal under R18-1-503(A) until the Department determines whether to grant or deny the license.~~
- ~~23. "Overall time frame clock" means the counting and assignment of days within the overall licensing time frame under A.R.S. § 41-1076.~~
- ~~21~~²⁴. "Penalty" means the sanction imposed on a Department fund under A.R.S. § 41-1077(B).
- ~~22~~²⁵. "Phased application" means ~~an a~~ application processed ~~process~~ pursuant to a licensing time-frame ~~an~~ agreement ~~between an applicant and the Department~~ that allows the applicant to submit application components in ~~2 two~~ or more phases with each phase providing for administrative completeness review.
- ~~23~~²⁶. "Pre-application" means the period prior to Department receipt of an applicant's 1st ~~acceptable~~ application component submittal under R18-1-503(A).
- ~~24~~²⁷. "Presumptive administrative completeness" means the expiration of the administrative completeness review time-frame ~~clock~~ and the automatic start of the running of days within starting of the substantive review time-frame ~~clock~~ under A.R.S. § 41-1074(C) if the Department fails to issue a notice of administrative completeness under A.R.S. § 41-1074(A).
- ~~25~~²⁸. "Presumptive overall time-frame" means the sum of the days shown for the administrative completeness review and substantive review time-frames on the license tables for that license category and may be different from the actual overall time-frame because the presumptive overall time-frame ~~it~~ does not include a lengthening of the time-frame due to a time-frame extension agreement or a shortening of the time-frame due to early starting of the substantive review time-frame caused by the issuance of a notice of administrative completeness.
- ~~26~~²⁹. "Presumptive substantive review time-frame" means the days shown for the substantive review time-frame on the license tables for a license category.
- ~~27~~³⁰. "Refund" means the sanction imposed on a Department fund under A.R.S. § 41-1077(A) that requires the Department to refund fees already paid by the applicant into that fund.
28. "Request for additional information" means a Department notification or contact made after the administrative review time-frame and that identifies information required by statute or rule and necessary before the Department may grant the license.
- ~~29~~³¹. "Sanction" means ~~the imposition of~~ a refund, fee excusal, or penalty under A.R.S. § 41-1077.
- ~~30~~³². "Site inspection" means an inspection performed by the Department under A.R.S. § 41-1009 as part of a required component of an application for a license shown on the license tables.
33. "Statutory administrative completeness" means Department receipt of all application components required by a statute other than A.R.S. §§ 41-1072 through 41-1078 and sufficient to allow the Department to determine that the application is administratively complete under that statute.
34. "Statutory administrative completeness time frame" means the entire period identified in a statute other than A.R.S. §§ 41-1072 through 41-1078 during which the Department shall complete the statutory administrative completeness review.

Arizona Administrative Register
Notices of Final Rulemaking

35. ~~“Statutory overall time frame” means the entire period identified in a statute other than A.R.S. §§ 41-1072 through 41-1078 during which the Department shall grant or deny a license.~~
3136. ~~“Substantive review” means the process of qualitative evaluation by the Department of application components to determine whether the components meet all requirements in statute or rule and necessary to grant the license. “Substantive review” and does not include clerical verification of the components nor does it include Department investigations resulting from reporting or notification requirements.~~
37. ~~“Substantive review time frame” has the meaning prescribed in A.R.S. § 41-1072(3). The Department interprets this term to mean the entire period after the end of the administrative completeness review time frame until either the Department makes a licensing decision or the applicant causes the time frame clocks to end under R18-1-507. The substantive review time frame includes time frame clock suspension and time frame extension periods.~~
38. ~~“Substantive review time frame clock” means the counting and assignment of certain days within the substantive review licensing time frame under A.R.S. § 41-1075(A).~~
3239. ~~“Time frame extension” means the entire period after the overall time-frame would otherwise expire and during which an application is not subject to sanctions. The substantive review and overall time-frames continue in effect and do not expire during the time-frame extension.~~
40. ~~“Time frame extension clock” means the counting and assignment of certain days within a licensing time frame extension under A.R.S. § 41-1075(B).~~
3341. ~~“Withdrawn application” means an application that has ceased to be subject to this Article due to the applicant's request that the Department cease all consideration of the application under R18-1-517-R18-1-517(B). An applicant's ability to withdraw an application is not governed by this Article.~~
34. “WQARF” means water quality assurance revolving fund.
The definition for “companion category” is added to clarify the meaning of “complex.” The definitions for the various “statutory time-frames” and “time-frame clocks” are deleted. See responses to Comments 3, 4, and 25. The definition of “lapsed application” is deleted. See response to Comment 19 below. Definitions for “comprehensive request for additional information” and “request for additional information” are added to reduce ambiguity as to their meaning. The definition for “WQARF” is added in support of its use on Tables 19, 19-S, and 20. Other changes are made to reduce ambiguity or correct typographical errors. None of the changes to this Section in today’s rule alter the scope or applicability of this rule from the October 23, 1998, proposed rule.

R18-1-502, “Applicability,” is revised for clarity, conciseness, and understanding as follows:

At R18-1-502(A)(4), “granted” is changed to “issued.”

At R18-1-502(A)(6), “one” is changed to “1.”

A. This Article does not apply to any of the following:

- ...
6. A license that requires 1 or more application components pursuant to an enforcement, abatement, or compliance order or consent agreement or a notice of violation in addition to those ~~identified shown~~ for a license category shown on the license tables if when submission of the component or components is required before the Department may make a decision to grant the license.
- ...
12. A license for which Department receipt of the 1st ~~acceptable~~ application component submittal under R18-1-503(A) occurs before the effective date of this Article January 1, 1999. The effective date of this Article shall be at midnight 2 weeks after the notice of final rulemaking is filed with the secretary of state.

B. ~~If~~ After an application becomes subject to this Article, it remains subject to the terms of the original license category in which it was classified unless the application ~~lapses~~, is withdrawn, is altered by a licensing time-frames agreement, or is changed under R18-1-516. If altered by a licensing time-frames agreement, the terms of the original license category are modified only to the extent expressly stated in the licensing time-frames agreement. ~~If this Article is amended after an application complies with R18-1-503(A), the application will continue to be subject to the terms of the original license category and not to subsequent amendments made to this Article. The terms of a licensee category include all provisions of this Article in effect on the date an applicant complies with R18-1-503(A).~~

...

In addition, “Effective Date” is added to the section title.

The qualifier “acceptable” in subsection (A) is deleted to reduce ambiguity. The effective date is changed to clarify that the applicability of this Article is prospective in nature and will not apply retrospectively to applications 1st received prior to the effective date of this rule. The period of 2 weeks will allow the Department an opportunity to know prospectively when today’s rule will become effective. This is because filings of notices of final rulemaking are usually not known with certainty by the Department until after they occur. Here, it is essential that the Department know in advance the exact day the rule goes into effect so that it can commence the many duties today’s rule places on the Department on the same day the rule requires.

Arizona Administrative Register
Notices of Final Rulemaking

R18-1-503, “Administrative Completeness Review Time-frame Clock Operation; Administrative Completeness,” is revised for clarity, conciseness, and understanding as follows:

- A.** The administrative completeness review time-frame ~~clock~~ for an application begins on the day of Department receipt of the 1st ~~acceptable~~ component submittal in support of the application that contains. ~~To start the clock, the submittal shall contain all the following:~~
- ...
3. Name and mailing address of the applicant or applicant's agent authorized by the applicant to receive all notices issued by the Department under this Article.
 4. Identification of the license category in which the application shall be 1st is to be processed. If companion categories are shown on a license table for this license, the application shall be 1st processed in the companion category that is determined as follows:
 - a. If “standard” and “complex” categories are shown, in the “standard” category.
 - b. If “without a public hearing” and “with a public hearing” are shown, in the “without a public hearing” category.
 - c. If “without a public meeting” and “with a public meeting” are shown, in the “without a public meeting” category.
- ...
7. All application components set forth by the Department in accordance with A.R.S. § 41-1079 ~~required by statute or rule and necessary or the Department to make a licensing decision under R18-1-507(A).~~
- B.** The administrative completeness review time-frame for an application ends on the earlier of the following days:
- ...
2. If the Department does not notify the applicant that the application is administratively complete under A.R.S. § 41-1074, the last day shown for the administrative completeness review time-frame for the relevant license category on the license tables ~~License Tables~~.
- ~~C.~~** ~~The Department may notify the applicant to respond to 1 or more notices of administrative deficiencies during the administrative completeness review time-frame.~~
- ~~D.~~** ~~If the applicant fails to submit the missing information identified on a list of specific administrative deficiencies included with the notice, the application shall lapse by the lapse date identified in the notice or, if no lapse date is identified, 2 months after notification.~~
- ~~CE.~~** ~~If a notice of administrative deficiencies states that the Department is suspending the running of days within the time-frames ~~time frame~~ clocks until the applicant supplies the missing information identified on a comprehensive list of specific deficiencies included with the notice, the running of days within the administrative completeness review time-frame ~~clock~~ suspends on the day of notification.~~
- ~~DE.~~** ~~If suspended, the running of days within the administrative completeness review time-frame ~~clock~~ resumes upon Department receipt of the missing information identified on the comprehensive list of specific deficiencies except when the Department notifies the applicant within 10 days after receipt that not all of the missing information was supplied, in which case the running of days within the time-frame ~~clock~~ remains suspended from the time of the 1st notice under subsection (C) ~~(D)~~ of this Section until the missing information is supplied to the Department. ~~If the applicant fails to submit the missing information identified in this subsection (F) notice, the application shall lapse by the lapse date identified in the notice or, if no lapse date is identified, 2 months after notification.~~~~
- ~~EG.~~** ~~If the Department determines that an applicant has submitted all application components required by statute or rule ~~the license tables for that license category~~ within the administrative completeness review time-frame and necessary to allow the Department to grant the license, the Department shall notify the applicant that the application is administratively complete under A.R.S. § 41-1074.~~
- ~~FH.~~** ~~If presumptive administrative completeness occurs:~~
1. Further notices of administrative deficiencies issued under subsection (C) ~~or (E)~~ of this Section will not suspend the running of days within the substantive review or overall time-frames and time frame ~~clocks~~,
 2. The Department does not waive the requirement for the applicant to submit all application components necessary to allow for the Department to determine whether to grant the license, and
 3. Nothing in this Article requires the Department to grant a license.
- ~~GI.~~** ~~The running of days within the administrative completeness review time-frame also suspends and resumes under ~~clock~~ also shall suspend and resume under R18-1-514 (pending payment of fees), R18-1-515 (due to changed applications), R18-1-518 (emergencies and upset conditions), R18-1-520 (notice of intent to rely on the application components submitted), and R18-1-521 (notice of intent to rely on the license category).~~
- ~~H.~~** ~~If, within 5 days after Department receipt of a 1st component submittal under subsection (A) of this Section, the Department determines that the submittal is so defective that the applicant clearly failed to make a good faith effort to submit all application components required by statute or rule and necessary for the Department to make a licensing decision to grant the license, the Department may determine that the submittal is not subject to this Article and that the Department shall not process the submittal. Department notification of this determination under R18-1-507(E) will cause all time-frames to end. The Department shall allow the applicant to reclaim the submittal~~

The qualifier “acceptable” in subsection (A) is deleted to reduce ambiguity. Subsection (A)(4) is modified to clarify how to determine which companion category to use when 1st submitting an application for a license that shows companion cate-

Arizona Administrative Register
Notices of Final Rulemaking

gories on a license table. Subsection (E) is modified to reduce ambiguity. Subsection (H) is added to clarify what limits the Department has in excluding manifestly defective applications from the tracking, resource expenditure, and reporting requirements of this Article. The other changes eliminate references to additional notice, lapse, and suspension provisions deleted throughout today's rule and make the language of this Section consistent with that used in other sections of this Article.

R18-1-504, “Substantive Review Time-frame ~~Clock~~ Operation; Requests for Additional Information,” is revised for clarity, conciseness, and understanding as follows:

- A. The substantive review time-frame ~~clock~~ for an application begins on one of the following days:
 - 1. If the Department notifies the applicant that the application is administratively complete before the expiration of the administrative completeness review time-frame ~~clock~~, 1 day after notification.
 - 2. If the Department does not notify the applicant that the application is administratively complete before the expiration of the administrative completeness review time-frame ~~clock~~, 1 day after expiration.
- B. The substantive review time-frame ~~clock~~ for an application ends on the earlier of the following days:
 - ...
- ~~C. The Department may notify the applicant to respond to one or more requests for additional information or comprehensive requests for additional information during the substantive review time frame.~~
- ~~D. If the applicant fails to submit the missing information identified in a request for additional information or a comprehensive request for additional information, the application shall lapse by the lapse date identified in the request or, if no lapse date is identified, 2 months after notification.~~
- E. If the Department notifies the applicant to respond to a comprehensive request ~~states that the Department is suspending the time-frame clock until the applicant supplies the missing information identified in the comprehensive request for additional information, the running of the days within the substantive review time-frame clock suspends on the day of Department notification. The Department may issue only one comprehensive request that suspends the running of days within the substantive review time-frame clock under A.R.S. § 41-1075(A).~~
- F. The running of days within the substantive review time-frame clock resumes upon Department receipt of the missing information identified in the comprehensive request except if the Department notifies the applicant within 15 days after receipt that not all of the missing information was supplied, in which case the running of days within the time-frame clock remains suspended until the applicant supplies the missing information to the Department. ~~If the applicant fails to submit the missing information identified in this subsection (F) notice, the application shall lapse by the lapse date identified in the notice or, if no lapse date is identified, 2 months after notification.~~
- G. The running of days within the substantive review time-frame clock also suspends and resumes shall suspend and resume under R18-1-514 (pending payment of fees), R18-1-515 (due to changed applications), R18-1-518 (emergencies and upset conditions), R18-1-520 (notice of intent to rely on the application components submitted), and R18-1-521 (notice of intent to rely upon the license category).

These changes (including elimination of references to lapse and suspensions) make the language of this Section consistent with that used in other sections of this Article.

R18-1-505, “Overall Time-frame ~~Clock~~ Operation,” is revised for clarity, conciseness, and understanding as follows:

- A. The overall time-frame ~~clock~~ for an application begins on the same day as the administrative completeness review time-frame ~~clock~~.
- B. The running of days within the overall time-frame clock suspends and resumes in concert with the administrative completeness and substantive review time-frames and time-frame extensions, and extension time-frame clocks.
- C. The duration of the overall time-frame ~~clock~~ equals the sum of all the following days unless altered by R18-1-508 (licensing time-frames pre-application agreements), R18-1-511 (changed licensing time-frames agreements), ~~R18-1-512 (reactivated licensing time-frames agreements)~~, or R18-1-513 (licensing time-frames opt-in agreements):
 - 1. The lesser of:
 - ...
 - b. The actual number of days for the administrative completeness review time-frame if the Department notifies the applicant under R18-1-503(E) ~~R18-1-503(G)~~ that the application is administratively complete before the expiration of the administrative completeness review time-frame;
 - ...

At R18-1-505(C)(3), “one” is changed to “1.”

R18-1-506, “Time-frame Extension ~~Clock~~ Operation,” is revised for clarity, conciseness, and understanding as follows:

Arizona Administrative Register
Notices of Final Rulemaking

- A. If created by a licensing time-frames extension agreement under R18-1-510, the time-frame extension ~~clock~~ for an application begins 1 day after the substantive review and overall ~~time-frames time-frame clocks~~ would otherwise expire and operates as if they were still in operation.
- B. The time-frame extension ~~clock~~ for an application ends on ~~1 one~~ of the following days, whichever is earlier:
...
- C. The Department may notify an applicant to respond to ~~1 comprehensive request for additional information requests for additional information and comprehensive requests for additional information~~ during the time-frame extension on the same terms as prescribed in R18-1-504 ~~except that the Department shall not make more than 1 comprehensive request for additional information under both R18-1-504 and this Section.~~
- ...
- E. The ~~running of days within the time-frame extension also suspends and resumes under clock shall also suspend and resume under R18-1-514 (pending payment of fees or receipt of signature), R18-1-515 (changed licensing time-frames), R18-1-518 (emergencies and upset conditions), R18-1-520 (notice of intent to rely on the application components submitted), and R18-1-521 (notice of intent to rely on the license category).~~

In R18-1-506(D), change “one” to “1.”

R18-1-507, “Ending of ~~Time-frames Time-frame Clocks~~; Licensing Decisions; ~~Lapse~~; Withdrawal; Notice of Licensing Time-frames Nonapplicability; ~~Ending of Time frames~~,” is revised for clarity, conciseness, and understanding as follows:

- A. Department notification of the following licensing decisions is sufficient to end all licensing ~~time-frames time-frame clocks~~ for an application:
 - 1. Unconditional grant of the license, meaning that the Department did not add conditions not requested ~~by~~, or agreed to ~~by~~, the applicant.
 - 2. Conditional grant of the license, meaning that the Department added conditions not requested by, or agreed to by, the applicant....
- ...
- C. The Department may deny a license under subsection (A) of this Section if the applicant submits incomplete or inaccurate information in response to a notice of administrative deficiencies under R18-1-503, a request for additional information or a comprehensive request for additional information under R18-1-504, a supplemental request for additional information under R18-1-509, or any other deficiency ~~found~~ in the application that prevents the Department from exercising its authority to grant the license. . . .
- ...
- D. The following actions by the applicant are sufficient to end all ~~time-frames time-frame clocks~~ for an application:
 - ~~1. Allowing the application to lapse by failing to submit a timely response to Department notification under this Article.~~
 - ~~2. Withdrawing the application under R18-1-517 R18-1-517(B).~~
 - ~~3. Entering into a changed licensing time-frames agreement under R18-1-511.~~...
- E. If the Department determines during its review of an application that the application is not subject to this Article, the Department shall ~~so~~ notify the applicant that the application is not subject to this Article. The Department notification shall contain the Department's reason for making the determination. Department notification ~~causes~~ ~~shall cause~~ all ~~time-frames time-frame clocks~~ for ~~the that~~ application to end.
- ~~F. The ending of time frame clocks under this Section also shall end all time-frames.~~

The structure of subsection (A)(1) is changed to parallel the structure of subsection (A)(2). Subsection (C) is modified to clarify the standard the Department uses to make a decision to deny a license. Subsections (D)(1) and (F) are deleted because “lapse” and “time-frame clock” concepts are also deleted from today’s rule.

R18-1-508, “Licensing Time-frames Pre-application Agreements,” is revised for clarity, conciseness, and understanding as follows:

In R18-1-508(A) and R18-1-508(A)(1) change “one” to “1.”

- ...
- B. A licensing time-frames pre-application agreement shall contain at least the following terms:
 - ...
 - 4. The number of days for the administrative completeness review time-frame and the substantive review time-frame. Time spent in pre-application review shall not count toward the running of days within the time-frames ~~any of the time-frame clocks.~~

Arizona Administrative Register
Notices of Final Rulemaking

- ...
6. Identification of the license category within which the Department shall begin processing ~~process~~ the application.
- C. A licensing time-frames pre-application agreement that allows ~~allowing~~ the applicant to submit certain application components in 1 ~~one~~ or more phases during the substantive review time-frame shall contain at least the terms identified in subsection (B) of this Section and the following terms:
1. The overall time-frame shall not be less than the presumptive overall time-frame identified in subsection (B)(6) of this Section ~~the base license category on the license tables~~.
 2. The administrative completeness review time-frame shown for the license category identified in subsection (B)(6) of this Section ~~identified in the base license category on the license tables~~ shall apply only to the 1st application phase.
 3. The applicant may submit components otherwise required for administrative completeness in subsequent phases during the substantive review time-frame only to the extent that the agreement specifies deadlines for each subsequent application phase and identifies the application components required in each subsequent phase. The Department may notify the applicant to respond to a notice of administrative deficiencies within 15 days after each subsequent submittal or the deadline identified in the agreement for each subsequent phased application component submittal. ~~If the applicant fails to submit the missing information identified in the notice, the application shall lapse by the lapse date identified in the notice or, if no lapse date is identified, 2 months after notification.~~
 4. The Department may suspend the running of days within the time-frames ~~time-frame clocks~~ once in each application phase with in response to a comprehensive request for additional information on the same terms as prescribed in under R18-1-504.
- D. ...
1. ...
 2. The resources of the Department. The Department shall not enter into an agreement if the Department determines that either the negotiation of the agreement or the terms of the agreement are likely to require the Department to expend additional resources to the significant detriment of other applicants.

...

In R18-1-508(D)(3), add “detrimental” after “potential.”

Subsection (B)(6) is modified to clarify that the identification of a license category here has similar meaning to a category identified under R18-1-503(A) if no pre-application agreement is used. The category is an initial processing category only and may be changed under other sections of this rule. Subsections (C)(1) and (C)(2) are modified to present the same meaning but without resort to the use of the term, “base category.” Subsection (C)(3) is changed to delete its lapse provision. Subsections (C)(4) and (D)(2) are changed to make the language consistent with that used in other sections of this Article.

R18-1-509, “Licensing Time-frames Supplemental Request Agreements,” is revised for clarity, conciseness, and understanding as follows:

- A. An applicant and the Department may enter into 1 ~~one~~ or more licensing time-frames supplemental request agreements to allow the suspension of the running of the days within the relevant substantive review, and overall, and extension time-frames ~~time-frame clocks and time-frame extensions~~ pending a response from the applicant to a supplemental request for additional information under A.R.S. § 41-1075(A). A request for additional time alone is not a valid justification for a supplemental request agreement.
- B. A licensing time-frames supplemental request agreement shall contain at least the following terms:
- ...
3. The running of days within the relevant substantive review and overall time-frames and time-frame extensions, over-all, and extension time-frame clocks as appropriate shall suspend and resume under Sections R18-1-504 through R18-1-506.
 4. ~~If the applicant fails to submit the missing information identified in the agreement, the application shall lapse by the lapse date identified in the agreement or, if no lapse date is identified, 2 months after the effective date of the agreement.~~

R18-1-510, “Licensing Time-frames Extension Agreements,” is revised for clarity, conciseness, and understanding as follows:

In R18-1-510(A), change “one” to “1.”

- ...
- B. The ~~combined~~ total of all time-frames extension agreements may extend the time-frames no more than 25% of the number of days beyond the presumptive overall time-frame or, if identified as a fixed number in an R18-1-508 pre-application agreement, the presumptive overall time-frame in that agreement. A calculation that results in a fraction ~~Calculations that result in fractions~~ of a day shall be rounded to the nearest day.

Arizona Administrative Register
Notices of Final Rulemaking

C. A time-frames extension agreement shall contain at least the following terms:

...

3. The agreement creates a time-frame extension ~~clock~~ that operates under R18-1-506.

R18-1-511, "Licensing Time-frames Changed Application Agreements," is revised for clarity, conciseness, and understanding as follows:

A. An applicant and the Department may enter into a licensing time-frames agreement to allow the applicant to change information previously submitted in support of a license application and to supersede the time-frames of that application with new time-frames. A changed licensing time-frames agreement causes all ~~time-frames time frame clocks~~ on the ~~super-~~~~seced~~-application to end under R18-1-507(D) and creates a new set of ~~time-frames time frame clocks~~ that operates under the agreement.

B. A changed licensing time-frames agreement shall contain at least the following terms:

...

6. Identification of the license category within which the ~~Department changed application~~ shall continue processing the changed application ~~be processed~~.

C. The Department shall consider all the following factors when determining whether to enter into a changed licensing time-frames agreement:

...

2. The resources of the Department. The Department shall not enter into an agreement if the Department determines that either the negotiation of the agreement or the terms of the agreement are likely to require the Department to expend additional resources to the significant detriment of other applicants.

3. The impact on public health and safety or the environment. The Department shall not enter into an agreement if the Department determines that the terms of the agreement are likely to cause a significant increase or change in the nature of the potential detrimental effects of the facility or activity to be governed by the license on public health and safety or the environment.

Subsection (B)(6) is modified to have a construction similar to R18-1-508(B)(6).

R18-1-512, "Licensing Time-frames Reactivation Agreements," is deleted in its entirety See response to Comment 19.

R18-1-512. ~~Reserved Licensing Time frames Reactivated Agreements~~

~~A. An applicant and the Department may enter into an agreement to allow the applicant to reactivate lapsed time frames on a pending application. A reactivated licensing time-frames agreement creates a new set of time frame clocks that operates under the agreement.~~

~~B. A reactivated licensing time-frames agreement shall contain at least the following terms:~~

~~1. Unless specified otherwise in the agreement, all requirements of this Article remain in effect.~~

~~2. A waiver under A.R.S. § 41-1004 by the applicant of its rights to the number of time frame days identified on the license tables in consideration of the Department allowing the applicant to reactivate the application.~~

~~3. Identification of application components required in support of the reactivated application.~~

~~4. The number of time frame days applicable to the reactivated application.~~

~~5. A fee adjustment, if appropriate.~~

~~6. Identification of the license category within which the reactivated application shall be processed.~~

~~C. The Department shall consider all the following factors when determining whether to enter into a reactivated licensing time frames agreement:~~

~~1. The complexity of the licensing subject matter. The Department shall not enter into an agreement if the presumptive substantive review time frame is less than 30 days.~~

~~2. The resources of the Department. The Department shall not enter into an agreement if the Department determines that either the negotiation of the agreement or the terms of the agreement are likely to require the Department to expend resources to the significant detriment of other applicants.~~

~~3. The impact on public health and safety or the environment. The Department shall not enter into an agreement if the Department determines that the terms of the agreement are likely to cause a significant increase or change in the nature of the potential effects of the facility or activity to be governed by the license on public health and safety or the environment.~~

R18-1-513, "Licensing Time-frames Opt-in Agreements," is revised for clarity, conciseness, and understanding as follows:

In R18-1-513(A), change "time-frame clocks" to time-frames."

...

Arizona Administrative Register
Notices of Final Rulemaking

- B. A licensing time-frames opt-in agreement shall contain at least the following terms:
- ...
2. Identification of the license category within which the Department application shall continue processing the application be processed.
- ...
- C. A licensing time-frames opt-in agreement may allow an applicant to submit certain application components in 1 one or more phases during the substantive review time-frame if the agreement contains terms equivalent to those under R18-1-508(C).
- D. The Department shall consider all the following factors when determining whether to enter into a licensing time-frames opt-in agreement:
1. The complexity of the licensing subject matter. The Department shall not enter into an agreement if the time set for the substantive review time-frame ~~clock~~ is less than 90 days.
 2. The resources of the Department. The Department shall not enter into an agreement if the Department determines that either the negotiation of the agreement or the terms of the agreement are likely to require the Department to expend additional resources to the significant detriment of other applicants.
- ...

In R18-1-513(D)(3), add “detrimental” after “potential.”

Subsection (B)(2) is modified to have a construction similar to R18-1-508(B)(6).

R18-1-514, “Suspension of Time-frames Pending Payment of Fees or Receipt of Applicant's Signature,” is deleted in its entirety. See response to Comment 95.

R18-1-514. Reserved Suspension of Time-frames Pending Payment of Fees or Receipt of Applicant's Signature

- ~~A. If a check or other form of payment of an application fee is returned for insufficient funds or if any payment due on the application is in any other manner prevented, the time frame clocks shall suspend on the date the Department learns of the payment failure. Upon suspension, the Department shall notify the applicant of the suspension. If the applicant fails to submit a replacement check or other form of payment to the Department within 1 month of Department notification, the application shall lapse. If not already lapsed, the time frame clocks shall resume upon Department notification that the Department has verified payment.~~
- ~~B. If an application has unpaid fees due at the time the Department makes a licensing decision on the application, Department notification of the decision shall suspend the time frame clocks. Thereafter, upon Department receipt of full payment, all time-frames shall end. A decision may include a condition that the license is not effective until payment in full is made. If the applicant fails to remit full payment to the Department after Department notification of the amount due, the application shall lapse by the lapse date identified in the notice or, if no lapse date is identified, 2 months after notification.~~
- ~~C. If the Department requires the applicant's signature after the application review is substantially complete but prior to the Department making a licensing decision, the time frame clocks shall suspend on the date the Department notifies the applicant that the signature is required. If the applicant fails to comply with the notice within 1 month of Department notification, the application shall lapse. If not already lapsed, the time frame clocks shall resume upon Department receipt of the applicant's signature as required in the notice.~~

R18-1-515, “Suspension of Time-frames Due to a Changed Application,” is deleted in its entirety. See response to Comment 95.

R18-1-515. Reserved Suspension of Time-frames Due to a Changed Application

- ~~A. The Department may determine that an applicant has changed an application if an application component contains information that results in any of the following:~~
- ~~1. A significant change to previous application components submitted in support of the application.~~
 - ~~2. A significant increase or change to previous application components in the nature of the potential effects of the proposed project or activity on public health and safety or the environment.~~
- ~~B. If the Department makes a determination under subsection (A) of this Section, the Department may notify the applicant. If the Department notifies the applicant, the time frame clocks suspend and the application shall lapse unless the applicant informs the Department of the applicant's decision to do one of the following within 1 month of Department notification:~~
- ~~1. Submit a notice of intent to rely on the application components submitted under R18-1-205 and R18-1-520.~~
 - ~~2. Submit a notice of intent to enter into negotiations with the Department for a changed application agreement under R18-1-511.~~
 - ~~3. Submit a notice withdrawing the component containing the information changing the application, in which case the time frame clocks remain suspended until the applicant submits a replacement component that does not result in another determination under subsection (A) of this Section. If the applicant then fails to submit a replacement compo-~~

Arizona Administrative Register
Notices of Final Rulemaking

ment, the application shall lapse by the lapse date identified in the notice under subsection (B) of this Section or, if no lapse date is identified, 2 months after notification.

R18-1-516, “Reassignment of License Category,” is revised for clarity, conciseness, and understanding as follows:

- ~~A. If a public hearing or public meeting is requested for an application for a license that requires the Department to hold a public hearing or public meeting on a proposed licensing decision if requested, the Department shall reassign the application from a license category not providing for a public hearing or public meeting to the companion category so providing. The Department shall notify the applicant of the change in the license category.~~
- ~~B. The Department may reassign an application to a different category if an evaluation of the application components indicates that a change is necessary in the category in which the application is classified including a change from a standard to a companion complex category if such categories are shown on the license tables for that license type. The Department shall notify the applicant of the change in the license category at which time the reassignment shall take effect. The Department notice shall contain the Department's reason for making the reassignment to a different license category. After receiving Department notification, the applicant may submit an R18-1-521 notice of intent to rely on the license category in effect before Department notification.~~
- ~~C. Reassignment to a new license category under this Section means only that the time-frame clocks for the application expire on the days shown for the new license category rather than the previous category.~~
- A. The Department may reassign an application to a different category if an evaluation of the application components indicates that a change is necessary in the category in which the application is classified. The Department shall notify the applicant of the change in the license category at which time the reassignment shall take effect. The Department notice shall contain the Department's reason for making the reassignment to a different license category. After receiving Department notification, the applicant may submit an R18-1-521 notice of intent to rely on the license category in effect before Department notification.
- B. If a public hearing or public meeting is requested for an application for a license that requires the Department to hold a public hearing or public meeting on a proposed licensing decision if requested, the Department shall reassign the application from a license category not providing for a public hearing or public meeting to the companion category so providing.
- C. Reassignment may include a change from a standard to a companion complex category if such categories are shown on the license tables.
- D. Reassignment to a new license category under this Section means only that the time-frames for the application expire on the days shown for the new license category rather than the previous category.

The elements of this Section have been reorganized and modified to incorporate the defined term, “companion category,” now added as R18-1-501(8). In addition, subsection (A) is modified to require that the Department state a reason when it reassigns an application to a different license category.

R18-1-517, “~~Application Lapse and Withdrawal; Lapse Date Extension Request~~,” is revised for clarity, conciseness, and understanding as follows:

- ~~A. A specific lapse date in a Department notice is one that supersedes the standard 2 month lapse date for Department notices under this Article. If the Department includes a specific lapse date in a Department notice, the Department shall determine the lapse date based on a reasonable time after taking into consideration the nature of the deficiency giving rise to the notice.~~
- ~~B. An applicant may allow an application to lapse. Lapse affects only the applicability of this Article to an application and does not prohibit the Department from continuing review of an application.~~
- ~~C. If allowed to do so by the Department, an applicant may withdraw an application prior to a decision by the Department to grant or deny the license.~~
- ~~D. Lapse or withdrawal of an application causes all time frame clocks to end under R18-1-507(D).~~
- ~~E. If the request is received by the Department before a lapse date, an applicant may request an extension of that lapse date. A lapse extension request shall include all of the following information:
 1. Identification of the applicant.
 2. Identification of the application.
 3. Identification and date of the Department notification or request giving rise to the lapse date.
 4. The reason why the applicant is not able to comply with the lapse date.
 5. Identification of a new lapse date.
 6. The reason why the new lapse date will provide adequate time for the applicant to comply.~~
- F. The Department may grant a timely lapse date extension request if all the following conditions are met:
 1. The extension will not be so long that resuming application processing at the later date is likely to require a significant increase in Department resources over the resources required to resume processing on the noticed lapse date.

Arizona Administrative Register
Notices of Final Rulemaking

- 2. ~~The extension will not be so long that resuming application processing at the later date is likely to cause a significant increase or change in the nature of the potential effects of the facility or activity to be governed by the license on public health and safety or the environment.~~
 - 3. ~~The applicant makes a showing that it is acting in good faith to comply with this Article.~~
 - G.** ~~The Department may grant a lapse extension request with a new lapse date different than the one requested by the applicant in the request.~~
 - H.** ~~The denial of a lapse date extension request means that the lapse date in effect before the request remains in effect.~~
 - I.** ~~The grant of a lapse date extension request after the lapse date in effect at the time of the request means that the new lapse date applies and the application did not lapse on the earlier date.~~
- Withdrawal of an application causes all time-frames for that application to end.

All references to lapse have been deleted. See response to Comment 19.

R18-1-518, “~~Emergencies and Upset Conditions~~,” is revised for clarity, conciseness, and understanding as follows:

- A.** The Director may declare a moratorium on the starting of time-frames ~~time-frame clocks~~ for new applications or may declare a suspension of ~~suspend all time-frames time-frame clocks for 1 one~~ or more license categories identified on the license tables upon a determination that the starting of time-frames ~~time-frame clocks~~ for new applications or the continued running of days within the time-frames ~~time-frame clocks~~ on existing applications in that license category is likely to result in sanctions for those applications due to emergencies including: any of the following:
 - 1. ~~Lack of Department resources to process applications in the same license category if that lack is due to events not reasonably within the control of the Department.~~
 - 2. ~~Emergencies and upset conditions including:~~
 - 1a. Diversion of Department resources to respond to pollution prevention emergency activity,
 - 2b. Loss of use of premises, ~~or~~
 - 3. Computer failure, or
 - 4e. Lack of access to a site inspection location due to weather or other natural conditions.
- B.** A declaration of a time-frame ~~clock~~ moratorium or suspension under subsection (A) of this Section shall be in writing and shall include all the following:
 - 1. The reason for the time-frame ~~clock~~ moratorium or suspension.
 - 2. Identification of the license categories subject to the time-frame ~~clock~~ moratorium or suspension.
 - 3. If relevant, restriction of the declaration to 1 one or more application review location or site inspection locations.
 - 4. Expiration of the time-frame ~~clock~~ moratorium or suspension by a date certain.
- C.** The Director may revoke declarations or issue successive declarations. The Director shall ensure that the duration of a time-frame moratorium or suspension under subsection (A) of the Section is limited to the shortest time necessary to address the emergency.
- D.** A declaration of a time-frame ~~clock~~ moratorium or suspension under subsection (A) of this Section affects only the operation of the time-frames ~~time-frame clocks~~ and does not prohibit the Department from acceptance or continued review of license applications.
- E.** A declaration of a time-frame moratorium or suspension under subsection (A) of this Section applies only to applications and license categories that are subject to sanctions

Subsection (A)(1) is deleted to remove it as a justification to invoke Department powers under this Section. Computer failure is added due to recent difficulties experienced by the Department. In January 1999, for example, the computer network crashed causing widespread computer failure that lasted up to 5 days in certain Department areas. Subsection (E) is added to clarify that this Section applies only to applications and categories subject to refunds. See responses to Comments 108 through 110.

R18-1-519, “Public Hearings; Public Meetings; Public Notice Periods,” is revised for clarity, conciseness, and understanding as follows:

- A.** ~~Public hearings and public meetings held by the Department and public notices, required for those hearings and meetings required by law to occur before a decision by the Department to grant a license, shall occur during the substantive review time-frame.~~
- B.** The suspension or expiration of the substantive review time-frame ~~clock~~ does not invalidate public hearings, public meetings, or public notice periods required by law to occur before a decision by the Department to grant a license.

Subsection (A) is deleted. See response to Comment 3.

Arizona Administrative Register
Notices of Final Rulemaking

R18-1-520, “Notice of Intent To Rely on the Application Components As Submitted,” is revised for clarity, conciseness, and understanding as follows:

- A.** An applicant, instead of submitting some or all of the application components identified by the Department, may submit a R18-1-205 notice of intent to rely on the application components as submitted in response to either of the following:
 - ...
 - 2. Receiving a request for additional information, a comprehensive request for additional information, or a supplemental request for additional information issued by the Department ~~after~~ during the ~~administrative completeness~~ substantive review time-frame.
- ~~**B.** Upon receiving of a timely R18-1-205 notice, the Department shall suspend the time frame clocks.~~
- ~~**BC.** If A decision by the Department decides under R18-1-205 to rescind or modify the identification of the application component or components objected to by the applicant, the Department if made, shall make the decision be made within 15 days after Department receipt of the applicant's R18-1-205 notice, and: If, at the time of the decision, the running of days within the time-frames is suspended:~~
 - 1. ~~A If made as a decision to rescind the identification of all application components identified complained of in the notice, shall resume the running of days within the time-frames; or continue all time frame clocks or~~
 - 2. ~~A If made as a decision to rescind or modify the identification of 1, but less than all, one or more application components identified complained of in the notice, shall allow the running of days within the time-frames to remain suspended in accordance with the Department notice reset all time frame clocks and lapse provisions to the times applicable to the actions identified in subsections (A)(1) or (A)(2) of this Section.~~
- ~~**CD.** If, within after 15 days after Department receipt of the applicant's R18-1-205 notice, the Department has not notified the applicant of a decision to rescind or modify the identification of the application component or components complained of in the notice, the running of days within the time-frames time frame clocks, if suspended, shall resume.~~

Subsection (B) is deleted because the “time-frame clock” concept is also deleted from today's rule.

R18-1-521, “Notice of Intent To Rely on the License Category,” is revised for clarity, conciseness, and understanding as follows:

- ~~**A.** Upon An applicant, upon Department notification that the Department has changed the license category under R18-1-516, an applicant may submit a notice of intent to rely on the license category in effect before the Department notification.~~
- ~~**B.** An applicant's notice under subsection (A) of this Section A notice of intent to rely on the license category shall include all of the following:~~
 - ...
- ~~**C.** Upon receipt of an applicant's notice under subsection (A) of this Section, the Department shall do 1 of the following:~~
 - 1. Rescind the change under subsection (D) of this Section.
 - 2. Make a licensing decision under R18-1-507(A) and process the decision in the changed category identified under R18-1-516.
 - 3. Allow the license category to revert under subsection (E) of this Section.
- ~~**C.** Upon receiving a timely notice of intent to rely on the license category, the Department shall suspend the time frame clocks and do one of the following:~~
 - 1. ~~Rescind the change under subsection (E) of this Section.~~
 - 2. ~~Make a licensing decision under R18-1-507(A).~~
- ~~**D.** A timely notice of intent to rely on the license category is one submitted within the time identified on the R18-1-516 Department notification or, if the notification does not specify a time, within 1 month after the notification.~~
- ~~**DE.** If the Department decides notification of a decision to rescind the change in the license category, the Department shall notify the applicant of the decision if made, shall be made within 15 days after the Department receipt of receives the applicant's notice under subsection (A) of this Section of intent to rely on the license category and shall continue to process the application in the license category on which the applicant is relying reset all time frame clocks and lapse provisions, if applicable, to the times applicable at the time of the R18-1-516 Department notification.~~
- ~~**EF.** If, within after 15 days after the Department receipt of receives the applicant's notice under subsection (A) of this Section of intent to rely on the license category, the Department has not notified the applicant of a decision under subsection (C) of this Section, the license category shall revert to the category in effect before the R18-1-516 Department notification with the same effect on the time-frames time frame clocks as described in subsection (D) (E) of this Section.~~

Subsection (D) is deleted because the Department has determined that no limit need be placed on applicants to decide when or if to submit a notice under this Section.

R18-1-522, “Notice of Change of Applicant's Agent for Receiving Licensing Time-frames Notices,” is revised for clarity, conciseness, and understanding as follows:

Arizona Administrative Register
Notices of Final Rulemaking

- A. An applicant may change the designation of its agent identified under R18-1-503(A)(3)~~R18-1-503(A)(2)~~ for receiving Department licensing time-frames notification.
- B. ~~To In order to~~ change the designation of the agent, the applicant shall submit a notice that complies with all the following to the application clerk:
 - ...
 - ...

Subsection (A) is modified to correct a typographical error. Subsection (B) is modified to simplify the language and reduce ambiguity.

R18-1-523, “Refunds, Fee Excusals, and Penalties,” is revised for clarity, conciseness, and understanding as follows:

- A. An application ~~is shall be~~ subject to sanctions under A.R.S. § 41-1077 only if the application is governed by this Article and requires a fee that is deposited in a Department fund. In addition, an application ~~is shall be~~ subject to penalties under A.R.S. § 41-1077(B) only if it is subject to a substantive review time-frame as indicated on the license tables. ~~An A-lapsed application or an application withdrawn before the expiration of the substantive review or overall time-frames time-frame~~ clocks, whichever is later, is not subject to sanctions.
- B. The Department shall make a refund and fee excusal to an applicant for an application if ~~the Department~~ it determines both of the following:
 - 1. ~~The later of the overall time-frame or time-frame extension clocks~~ for that application expired prior to Department notification of a licensing decision under R18-1-507(A).
 - ...
- C. The Department shall issue a refund and ~~make approve~~ a fee excusal within 15 days after ~~the department makes making a~~ determination that a refund and fee excusal is due required.
- D. A refund and fee excusal is limited to the specific application giving rise to the refund and fee excusal and does not include refunds or payment excusals for services requested by the applicant beyond the scope of the application. A refund is limited to the amount actually received from the applicant by the Department for the specific application giving rise to the refund and ~~does shall~~ not include interest.
- E. The Department shall pay to the state general fund a penalty for ~~an each application for which a determination has been made that a refund is due under subsection (B) of this Section. Only such applications outstanding on the last calendar day of each month are subject to a penalty. The Department shall deposit the penalty in the state general fund within 4 months of incurring the penalty. if the Department determines both of the following:~~
 - 1. The overall time-frame for that application expired prior to Department notification of a licensing decision under R18-1-507(A).
 - 2. On the last calendar day of the month, the Department still has not made a licensing decision under R18-1-507(A).
- F. ~~If an application accumulates excused fees, the Department shall calculate the penalty each month to include both the penalty due for the current month plus any additional penalties now due for previous months resulting from the continued accumulation of excused fees during the current month. The fee subject to a penalty for an application that is still accumulating review charges at the time the penalty is due shall be determined retrospectively based on what the total fee would have been had no sanctions been imposed.~~

The last sentence is deleted from subsection (E) because the Department has determined that such a time provision stated in rule is unnecessary.

~~R18-1-524~~R18-9-524, “Site Inspections,” is revised to correct a typographical error in the section title and to delete “as” in the body of the Section.

R18-1-525, “Licensing Time-frames; ~~Application Components License Tables~~,” is revised for clarity, conciseness, and understanding as follows:

The administrative completeness review time-frame ~~elock~~ days, the substantive review time-frame ~~elock~~ days, and the references to application components for each license category subject to this Article are as shown on the license tables.

Table 1, “Class I Air Licenses,” is revised for clarity, conciseness, and understanding as follows:

- In categories 9 through 12, change “fee” to “initial fee.”
- In category 17, add “initial fee” before “required.”
- In category 25, add “new” before “permit.”

Arizona Administrative Register
Notices of Final Rulemaking

Table 2, “Class II Air Licenses,” is revised for clarity, conciseness, and understanding as follows:
 In categories 18, change “R18-2-503” to “R18-2-505” both times it appears.

Table 4, “Vehicle Emission Licenses,” is revised as follows:

The administrative completeness review time-frames for category 1, “fleet station permit,” is increased from 10 to 15 days and the substantive review time-frame is increased from 15 to 21 days.

The administrative completeness review time-frames for category 2, “analyzer facility registration,” is increased from 1 to 10 days and the substantive review time-frame is decreased from 15 to 10 days. “Site inspection required” is added to the application components of this category.

These changes correct typographical errors contained in the October 23, 1998, proposed rule.

Table 5, “Safe Drinking Water Construction Licenses Issued by the Phoenix Office,” is revised as follows:

Groups III and IV (categories 9-15) as shown on the proposed rule are deleted. These groups contained subdivision sanitary facility license categories. These licenses are also governed by categories on Table 7, “Subdivision Sanitary Facility Licenses Issued by the Phoenix Office.” This means that the scope and applicability of today’s rule is unchanged from the October 23, 1998, proposed rule. What changes are the choices as to what tables within which these applications will be processed. Group V (categories 16-18) are renumbered to Group III, categories 9-11, as a result. Changes to the table shown in the proposed rule are as follows:

**Table 5: Safe Drinking Water Construction Licenses Issued by the Phoenix Office
 Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Tim-frame

SRTF means Substantive Review Time-frame

Day means business day

License Category	ACR TF	SR TF	Subject to Sanctions	Application Components
Group I: Drinking water approval-to-construct (ATC) licences:				
1. Standard drinking water treatment facility, project, or well approval to construct, A.R.S. § 49-353, A.A.C. R18-4-505.	11	32	No	A.A.C. R18-4-505, Department application form and site inspection required.
2. Complex drinking water treatment facility, project, or well approval to construct, A.R.S. § 49-353, A.A.C. R18-4-505.	11	62	No	A.A.C. R18-4-505, Department application form and site inspection required.
3. Standard public and semi-public swimming pool design approval, A.R.S. § 49-104(B)(12).	21	21	No	A.A.C. R18-5-203, Department application form and site inspection required.
4. Complex public and semi-public swimming pool design approval, A.R.S. § 49-104(B)(12).	21	62	No	A.A.C. R18-5-203, Department application form and site inspection required.

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

5. Standard drinking water treatment facility, project, or well approval of construction, A.R.S. § 49-353, A.A.C. R18-4-507.	11	32	No	A.A.C. R18-4-507, Department application form and site inspection required.
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Arizona Administrative Register
Notices of Final Rulemaking

6. Complex drinking water treatment facility, project, or well approval of construction, A.R.S. § 49-353, A.A.C. R18-4-507.	11	62	No	A.A.C. R18-4-507, Department application form and site inspection required.
7. Standard public and semi-public swimming pool approval of construction, A.R.S. § 49-104(B)(12).	21	21	No	A.A.C. R18-5-204, Department application form and site inspection required.
8. Complex public and semi-public swimming pool approval of construction, A.R.S. § 49-104(B)(12).	21	62	No	A.A.C. R18-5-204, Department application form and site inspection required.

Group III: Subdivision sanitary facility licenses with no Clean Water Act (CWA) § 208 consistency review:

9. Subdivision water approval (with water extension lines only); A.R.S. § 49-104(B)(11); A.A.C. R18-5-401 through R18-5-411.	11	32	No	A.A.C. R18-5-401 through R18-5-411, Department application form and site inspection required.
10. Standard subdivision water approval (with new water or sewage system with no CWA § 208 consistency review); A.R.S. § 49-104(B)(11); A.A.C. R18-5-401 through R18-5-411.	32	37	No	A.A.C. R18-5-401 through R18-5-411, Department application form, site inspection, and § 208 consistency determination required.

**Table 5 (Continued): Safe Drinking Water Construction Licenses Issued by the Phoenix Office
Subject to A.R.S. § 41-1073(A) Licensing Time Frame Requirements**

ACRTF means Administrative Completeness Review Time Frame

SRTF means Substantive Review Time Frame

Day means business day

License Category	ACR TF	SR TF	Subject to Sanctions	Application Components
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Group III (Continued): Subdivision sanitary facility licenses with no Clean Water Act (CWA) § 208 consistency review:

11. Complex subdivision water approval (with new water or sewage system with no CWA § 208 consistency review); A.R.S. § 49-104(B)(11); A.A.C. R18-5-401 through R18-5-411.	32	67	No	A.A.C. R18-5-401 through R18-5-411, Department application form, site inspection, and § 208 consistency determination required.
12. Water and on-site subdivision approval (with new water or sewage system with no CWA § 208 consistency review); A.R.S. § 49-104(B)(11); A.A.C. R18-5-401 through R18-5-411.	32	32	No	A.A.C. R18-5-401 through R18-5-411, Department application form, site inspection, and § 208 consistency determination required.

Arizona Administrative Register

Notices of Final Rulemaking

<p>13. Dry lot and on-site subdivision approval (with new sewage system with no CWA § 208 consistency review); A.R.S. § 49-104(B)(11); A.A.C. R18-5-401 through R18-5-411.</p>	<p>32 32 No</p>	<p>A.A.C. R18-5-401 through R18-5-411, Department application form, site inspection, and § 208 consistency determination required.</p>
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~~Group IV: Subdivision sanitary facility licenses with a Clean Water Act (CWA) § 208 consistency review:~~

<p>14. Standard subdivision water approval (with new water or sewage system with a CWA § 208 consistency review); A.R.S. § 49-104(B)(11); A.A.C. R18-5-401 through R18-5-411.</p>	<p>53 58 No</p>	<p>A.A.C. R18-5-401 through R18-5-411, Department application form and site inspection required.</p>
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<p>15. Complex subdivision water approval (with new water or sewage system with a CWA § 208 consistency review); A.R.S. § 49-104(B)(11); A.A.C. R18-5-401 through R18-5-411.</p>	<p>53 88 No</p>	<p>A.A.C. R18-5-401 through R18-5-411, Department application form and site inspection required.</p>
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Group III-V: Other licenses:

<p>9-16. Standard drinking water new source approval, A.R.S. § 49-353, R-18-4-505.</p>	<p>11 32 No</p>	<p>A.A.C. R18-4-505, Department application form and site inspection required.</p>
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<p>10-17. Complex drinking water new source approval, A.R.S. § 49-353, R-18-4-505.</p>	<p>11 62 No</p>	<p>A.A.C. R18-4-505, Department application form and site inspection required.</p>
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<p>11-18. Drinking water time extension approval, A.R.S. § 49-353, A.A.C. R18-4-505.</p>	<p>11 11 No</p>	<p>A.A.C. R18-4-505, Department application form required.</p>
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Tables 5-N and 5-S, “Safe Drinking Water Construction Licenses Issued by the Northern Regional Office” and “Safe Drinking Water Construction Licenses Issued by the Southern Regional Office,” are revised in the same manner as Table 5.

Table 6, “Wastewater Construction Licenses Issued by the Phoenix Office,” is revised as follows:

Group I is revised. “[W]ith no Clean Water Act (CWA) § 208 consistency review” is deleted from the name of Group I and from the names of the categories 1-4 and 7-10 within Group I. This does not change the scope or meaning of the licenses identified in this group. Administrative completeness review time-frames for categories 1-2 and 4-10 are reduced from 32 to 21 days. This is the result of continued evaluation by the Department of the application review process and the determination that additional time-saving steps can be implemented.

Group II is deleted along with its categories 11-20. This is not a reduction in licensing activity governed by today’s rule because these categories represented a combination of the license approvals identified in Group I plus the CWA § 208 consistency review approval now identified as category 22.

Group III (categories 21-30) is renumbered to Group II, categories 11-20. Administrative completeness review time-frames for categories 21-22 and 24-30 are reduced from 32 to 21 days. This is the result of continued evaluation by the Department of the application review process and the determination that additional time-saving steps can be implemented.

Arizona Administrative Register
Notices of Final Rulemaking

Groups IV and V (categories 31-42) are deleted. These groups contain subdivision sanitary facility license categories. These licenses are governed by categories on Table 7, "Subdivision Sanitary Facility Licenses Issued by the Phoenix Office". This means that the scope and applicability of today's rule is unchanged from the October 23, 1998, proposed rule.

Group VI (categories 43-44) are renumbered to Group III, categories 21-22. Changes to the table shown in the proposed rule are as follows:

Table 6: Wastewater Construction Licenses Issued by the Phoenix Office
Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame

SRTF means Substantive Review Time-frame

Day means business day

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group I: Wastewater approval-to-construct (ATC) licences with no Clean Water Act (CWA) § 208 consistency review:				
1. Standard wastewater treatment facility approval to construct with no CWA § 208 consistency review, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804.	21-32 32	32	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, § 208 consistency determination, and initial fee required.
2. Complex wastewater treatment facility approval to construct with no CWA § 208 consistency review, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804.	21-32 62	62	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, § 208 consistency determination, and initial fee required.
3. Standard sewerage collection system approval to construct with no CWA § 208 consistency review, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804.	21	32	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, § 208 consistency determination, and initial fee required.
4. Complex sewerage collection system approval to construct with no CWA § 208 consistency review, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804.	21-32 62	62	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, § 208 consistency determination, and initial fee required.
5. Standard individual on-site wastewater facility approval to construct, A.R.S. § 49-361 and 49-362, A.A.C. R18-9-804.	21-32 21	21	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, § 208 consistency determination, and initial fee required.
6. Complex individual on-site wastewater facility approval to construct, A.R.S. § 49-361 and 49-362, A.A.C. R18-9-804.	21-32 41	41	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, § 208 consistency determination, and initial fee required.

Arizona Administrative Register
Notices of Final Rulemaking

7. Standard non-individual on-site wastewater facility approval to construct with no CWA § 208 consistency review, A.R.S. § 49-361 and 49-362, A.A.C. R18-9-804.	21-32 41	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, § 208 consistency determination, and initial fee required.
8. Complex non-individual on-site wastewater facility approval to construct with no CWA § 208 consistency review, A.R.S. § 49-361 and 49-362, A.A.C. R18-9-804.	21-32 62	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, § 208 consistency determination, and initial fee required.

Table 6 (Continued): Wastewater Construction Licenses Issued by the Phoenix Office
Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame

SRTF means Substantive Review Time-frame

Day means business day

License Category	ACR TF	SR TF	Subject to Sanctions	Application Components
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Group I (Continued): Wastewater approval-to-construct (ATC) licenses ~~with no Clean Water Act (CWA) § 208 consistency review:~~

9. Standard reclaimed wastewater and sewage disposal facility approval to construct with no CWA § 208 consistency review, A.R.S. § 49-361 and 49-362, A.A.C. R18-9-804.	21-32 41	Yes	A.A.C. R18-9-703, R18-9-803, and R18-9-804, R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, § 208 consistency determination, and initial fee required.
10. Complex reclaimed wastewater and sewage disposal facility approval to construct with no CWA § 208 consistency review, A.R.S. § 49-361 and 49-362, A.A.C. R18-9-804.	21-32 62	Yes	A.A.C. R18-9-703, R18-9-803, and R18-9-804, R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, § 208 consistency determination, and initial fee required.

Group II: ~~Wastewater approval to construct (ATC) licences with a Clean Water Act (CWA) § 208 consistency review:~~

11. Standard wastewater treatment facility approval to construct with a CWA § 208 consistency review, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804.	53	53	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.
12. Complex wastewater treatment facility approval to construct with a CWA § 208 consistency review, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804.	53	83	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.
13. Standard sewerage collection system approval to construct with a CWA § 208 consistency review, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804.	42	53	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.

Arizona Administrative Register

Notices of Final Rulemaking

14. Complex sewerage collection system approval to construct with a CWA § 208 consistency review; A.R.S. §§ 49-361 and 49-362; A.A.C. R18-9-804.	53	83	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.
15. Standard individual on-site wastewater treatment facility approval to construct with a CWA § 208 consistency review; A.R.S. §§ 49-361 and 49-362; A.A.C. R18-9-804.	53	53	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.
16. Complex individual on-site wastewater treatment facility approval to construct with a CWA § 208 consistency review; A.R.S. §§ 49-361 and 49-362; A.A.C. R18-9-804.	53	83	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.

Table 6 (Continued): Wastewater Construction Licenses Issued by the Phoenix Office

Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame

SRTF means Substantive Review Time-frame

Day means business day

License Category	ACR TF	SR TF	Subject to Sanctions	Application Components
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~~Group II (Continued): Wastewater approval to construct (ATC) licenses with a Clean Water Act (CWA) § 208 consistency review:~~

17. Standard non-individual on-site wastewater facility approval to construct with a CWA § 208 consistency review; A.R.S. § 49-361 and 49-362; A.A.C. R18-9-804.	53	62	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.
18. Complex non-individual on-site wastewater facility approval to construct with a CWA § 208 consistency review; A.R.S. § 49-361 and 49-362; A.A.C. R18-9-804.	53	83	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.
19. Standard reclaimed wastewater and sewage disposal facility approval to construct with a CWA § 208 consistency review; A.R.S. § 49-361 and 49-362; A.A.C. R18-9-804.	53	63	Yes	A.A.C. R18-9-703, R18-9-803, and R18-9-804, R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.
20. Complex reclaimed wastewater and sewage disposal facility approval to construct with a CWA § 208 consistency review; A.R.S. § 49-361 and 49-362; A.A.C. R18-9-804.	53	83	Yes	A.A.C. R18-9-703, R18-9-803, and R18-9-804, R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.

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

Arizona Administrative Register
Notices of Final Rulemaking

<u>11-21</u> . Standard wastewater treatment facility approval of construction, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804.	<u>21-32</u> 32	Yes	A.A.C. R18-9-803, R18-9-805, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.
<u>12-22</u> . Complex wastewater treatment facility approval of construction, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804.	<u>21-32</u> 62	Yes	A.A.C. R18-9-803, R18-9-805, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.
<u>13-23</u> . Standard sewerage collection system approval of construction, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804.	21 32	Yes	A.A.C. R18-9-803, R18-9-805, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.
<u>14-24</u> . Complex sewerage collection system approval of construction, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804.	<u>21-32</u> 62	Yes	A.A.C. R18-9-803, R18-9-805, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.

**Table 6 (Continued): Wastewater Construction Licenses Issued by the Phoenix Office
Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Time-frame
SRTF means Substantive Review Time-frame
Day means business day

License Category	ACR TF	SR TF	Subject to Sanctions	Application Components
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Group III (Continued): Waste water approval-of-construction (AOC) licenses:

<u>15-25</u> . Standard individual on-site wastewater facility approval of construction, A.R.S. § 49-361 and 49-362, A.A.C. R18-9-804.	<u>21-32</u> 21	Yes	A.A.C. R18-9-803, R18-9-805, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.
<u>16-26</u> . Complex individual on-site wastewater facility approval of construction, A.R.S. § 49-361 and 49-362, A.A.C. R18-9-804.	<u>21-32</u> 41	Yes	A.A.C. R18-9-803, R18-9-805, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.
<u>17-27</u> . Standard non-individual on-site wastewater facility approval of construction, A.R.S. § 49-361 and 49-362, A.A.C. R18-9-804.	<u>21-32</u> 41	Yes	A.A.C. R18-9-803, R18-9-805, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.

Arizona Administrative Register

Notices of Final Rulemaking

<p>18-28. Complex non-individual on-site wastewater facility approval of construction, A.R.S. § 49-361 and 49-362, A.A.C. R18-9-804.</p>	<p>21-32 62</p>	<p>Yes</p>	<p>A.A.C. R18-9-803, R18-9-805, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.</p>
<p>19-29. Standard reclaimed wastewater and sewage disposal facility approval of construction, A.R.S. § 49-361 and 49-362, A.A.C. R18-9-804.</p>	<p>21-32 41</p>	<p>Yes</p>	<p>A.A.C. R18-9-803, R18-9-805 R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.</p>
<p>20-30. Complex reclaimed wastewater and sewage disposal facility approval of construction, A.R.S. § 49-361 and 49-362, A.A.C. R18-9-804.</p>	<p>21-32 62</p>	<p>Yes</p>	<p>A.A.C. R18-9-803, R18-9-805 R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.</p>

Group IV: Subdivision sanitary facility licenses with no Clean Water Act (CWA) § 208 consistency review:

<p>31. Standard subdivision wastewater approval with no § 208 consistency review, A.R.S. § 49-104(B)(11), A.A.C. R18-9-804.</p>	<p>32</p>	<p>37</p>	<p>Yes</p>	<p>A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, § 208 consistency determination, and initial fee required.</p>
<p>32. Complex subdivision wastewater approval with no § 208 consistency review, A.R.S. § 49-104(B)(11), A.A.C. R18-9-804.</p>	<p>32</p>	<p>67</p>	<p>Yes</p>	<p>A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, § 208 consistency determination, and initial fee required.</p>

**Table 6 (Continued): Wastewater Construction Licenses Issued by the Phoenix Office
Subject to A.R.S. § 41-1073(A) Licensing Time Frame Requirements**

ACRTF means Administrative Completeness Review Time Frame

SRTF means Substantive Review Time Frame

Day means business day

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
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Group IV (Continued): Subdivision sanitary facility licenses with no Clean Water Act (CWA) § 208 consistency review:

<p>33. Standard water and on-site wastewater subdivision approval with no § 208 consistency review, A.R.S. § 49-104(B)(11), A.A.C. R18-9-804.</p>	<p>32</p>	<p>46</p>	<p>Yes</p>	<p>A.A.C. R18-9-803, R18-9-804, and R18-9-806, Fee: R18-14-101 through R18-14-108. Department application form, site inspection, and initial fee required.</p>
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Arizona Administrative Register
Notices of Final Rulemaking

34. Complex water and on-site wastewater subdivision approval with no § 208 consistency review, A.R.S. § 49-104(B)(11), A.A.C. R18-9-804.	32	67	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site-inspection, § 208 consistency-determination, and initial fee required.
35. Standard dry lot and on-site wastewater subdivision approval with no § 208 consistency review, A.R.S. § 49-104(B)(11), A.A.C. R18-9-804.	32	46	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site-inspection, § 208 consistency-determination, and initial fee required.
36. Complex dry lot and on-site wastewater subdivision approval with no § 208 consistency review, A.R.S. § 49-104(B)(11), A.A.C. R18-9-804.	32	67	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site-inspection, and initial fee required.

Group V: Subdivision sanitary facility licenses with a Clean Water Act (CWA) § 208 consistency review:

37. Standard subdivision wastewater approval with a § 208 consistency review, A.R.S. § 49-104(B)(11), A.A.C. R18-9-804.	53	58	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site-inspection, and initial fee required.
38. Complex subdivision wastewater approval with a § 208 consistency review, A.R.S. § 49-104(B)(11), A.A.C. R18-9-804.	53	88	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site-inspection, and initial fee required.
39. Standard water and on-site wastewater subdivision approval with a § 208 consistency review, A.R.S. § 49-104(B)(11), A.A.C. R18-9-804.	53	67	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site-inspection, and initial fee required.
40. Complex water and on-site wastewater subdivision approval with a § 208 consistency review, A.R.S. § 49-104(B)(11), A.A.C. R18-9-804.	53	88	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site-inspection, and initial fee required.

**Table 6 (Continued): Wastewater Construction Licenses Issued by the Phoenix Office
Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Time-frame

SRTF means Substantive Review Time-frame

Day means business day

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
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Arizona Administrative Register
Notices of Final Rulemaking

Group V (Continued): ~~Subdivision sanitary facility licenses with a Clean Water Act (CWA) § 208 consistency review;~~

41. Standard dry lot and on-site wastewater sub- division approval with a § 208 consistency review; A.R.S. § 49-104(B)(11); A.A.C. R18-9-804.	53	67	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site- inspection, and initial fee required.
42. Complex dry lot and on-site wastewater sub- division approval with a § 208 consistency review; A.R.S. § 49-104(B)(11); A.A.C. R18-9-804.	53	88	Yes	A.A.C. R18-9-803, R18-9-804, and R18-9-806; Fee: R18-14-101 through R18-14-108. Department application form, site- inspection, and initial fee required.

Group VI: Other wastewater licenses:

21-43. Wastewater time extension approval, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804(F).	21	21	Yes	A.A.C. R18-9-804(F), Fee: R18-14-101 through R18-14-108, Department application form and initial fee required.
22-44. CWA § 208 consistency review approval, A.R.S. §§ 49-361 and 49-362, A.A.C. R18-9-804(I) and R18-9-804(J).	21	21	No	A.A.C. R18-9-804(I) and R18-9-804(J), Department application form required.

Tables 6-E, “Wastewater Construction Licenses Issued by the Enforcement Unit,” is added and contains the same groups, categories, times, and application components as revised Table 6. This table does not represent an addition to the licensing activity identified in the October 23, 1998, proposed rule. It results from splitting the licensing activity administered by the water quality enforcement unit of the water division from the licensing activity administered by other units of the water division. All this activity was combined on the previous Table 6. Today’s rule requires the enforcement unit to use Table 6-E to track and report on its licensing time-frames compliance in a manner that will allow easier evaluation of its performance.

Tables 6-N and 6-S, “Wastewater Construction Licenses Issued by the Northern Regional Office” and “Wastewater Construction Licenses Issued by the Southern Regional Office,” are revised in the same manner as Table 6.

Table 7, “Subdivision Construction Licenses Issued by the Phoenix Office” is revised as follows:

The title is changed to “Subdivision Sanitary Facility Licenses issued by the Phoenix Office.”

The title for Group I, “Subdivision sanitary facility licenses with no Clean Water Act (CWA) § 208 consistency review,” is deleted.

“[W]ith no Clean Water Act (CWA) § 208 consistency review” is deleted from the names of categories. 1-6 This does not change the scope or meaning of the licenses identified in this group. Administrative completeness review time-frames for categories 6 are reduced from 32 to 21 days. This is the result of continued evaluation by the Department of the application review process and the determination that additional time-saving steps can be implemented.

Group II and its categories, 7-12, is deleted. This is not a reduction in licensing activity governed by today’s rule because these categories represented a combination of the license approvals identified in Group I plus the CWA § 208 consistency review approval now identified as Table 6, category 22.

Tables 7-N and 7-S, “Subdivision Construction Licenses Issued by the Northern Regional Office” and “Subdivision Construction Licenses Issued by the Southern Regional Office,” are revised in the same manner as Table 7.

Table 8, Safe Drinking water Monitoring and Treatment Licenses,” is revised as follows:

In category 1, the following citations are deleted: R18-4-213(A), R18-4-313(P)(1), and R18-4-313(P)(2). “R18-4-216(G)(1)”

Arizona Administrative Register
Notices of Final Rulemaking

is changed to “R18-4-216(G).”

The substantive review time-frames for category 19, “maximum containment level compliance blending plan approval,” and category 20, “maximum contaminant level compliance blending plan change approval,” are revised by splitting each category into 2 subcategories and then decreasing the times for the substantive review time-frame each from 125 days to a lesser number. The 2 subcategories are differentiated as “with 10 or fewer points-of-entry” and “with more than 10 points-of entry.” The substantive review for “10 or fewer” is 42 days (approximately 2 months) and for “more than 10” is 84 days (approximately 4 months). The remainder of the categories on table 8 are renumbered to accommodate the splitting of these 2 categories into four. This change results from Department reanalysis of the nature and range of application proposals likely to be submitted in these categories.

Table 9, “Water and Wastewater Facility Operator Licenses” is changed to add “Facility” in the table heading.

Table 10, “Water Quality Licenses” is changed as follows:

Change “Yes” to “No” in the “Subject to Sanctions” column for the following categories: 15, 16, 41, 42, 57, 58, 73, 74, 89, and. The categories all pertain to VEMUR approvals for which the Department does not charge application review fees.

Table 12, “Solid Waste Licenses,” is revised as follows:

Category 1, “Rule or standard variance request,” is revised under application components to change “A.A.C. R18-8-1122((P), R18-13-510” to “A.R.S. § 49-763.01.”

Category 2, “Biosolid applicator registration request acknowledgment, is revised to show the administrative completeness review time-frame changed from 11 to 15 business days. This corrects a typographical error in that the underlying program rule also states “15 business days.” The citation to “A.A.C. R18-13-1504(A)” is corrected to “A.A.C. R18-13-1504(A).”

Category 13, “Nonlandfill solid waste discharging facility AP permit transfer approval” is changed to add “fee” before “required.”

In categories 17 and 18, “Yes” is changed to “No” in the Sanctions column.

Table 13, “Special Waste Licenses,” is revised as follows:

Group I and it categories, 1-3, are deleted in that the Department has now determined that it, in fact, does issue these within 7 calendar days. This makes them exempt from this rule under A.R.S. § 41-1073(D). The remaining groups and categories are renumbered to reflect this deletion. In addition, complex special waste facility plan approval categories are deleted because these categories contained presumptive overall time-frames in excess of review times identified in statute. All applications will be processed in the basic categories identified as “standard” in the proposed rule. The changed rule text is as follows:

Table 13: Special Waste Licenses
Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame

SRTF means Substantive Review Time-frame

Day means business day

License Category	ACR TF	SR TF	Subject to Sanctions	Application Components
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~~Group I: Special waste identification number licenses:~~

1. Special waste generator identification number, 11	40	No		A.A.C. R18-8-302(A), Department application form required.
A.R.S. §§ 49-762 and 49-857, A.A.C. R18-8-302(A).				

Arizona Administrative Register

Notices of Final Rulemaking

2. Special waste shipper identification number, A.R.S. §§ 49-762 and 49-857, A.A.C. R18-8-303(A).	11	40	No	A.A.C. R18-8-303(A); Department application form required.
3. Special waste receiving facility identification number, A.R.S. §§ 49-762 and 49-857, A.A.C. R18-8-304(A).	11	40	No	A.A.C. R18-8-304(A); Department application form required.

Group I H: Special waste licenses:

14. Waste from shredding motor vehicles alternative sampling plan approval, A.R.S. §§ 49-762 and 49-857, A.A.C. R18-8-307(A).	5	5	No Yes	A.A.C. R18-8-307(A); Initial fee required.
25. Special waste temporary treatment facility approval, A.R.S. §§ 49-762 and 49-857, A.A.C. R18-8-1610.	32	62	No Yes	A.A.C. R18-8-1607 and R18-13-403.

Group II H: Special waste facility plan licenses:

36. Existing Standard existing special waste facility plan approval, A.R.S. § 49-762.03(A)(2).	32	124	Yes	A.A.C. R18-8-307 and R18-8-1601 through R18-8-1614, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
7. Complex existing special waste facility plan approval, A.R.S. § 49-762.03(A)(2).	32	165	Yes	A.A.C. R18-8-307 and R18-8-1601 through R18-8-1614, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
48. New Standard new special waste facility plan approval with no public hearing, A.R.S. § 49-762.03(A)(1).	32	62	Yes	A.A.C. R18-8-307 and R18-8-1601 through R18-8-1614, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
59. New Standard new special waste facility plan approval with a public hearing, A.R.S. § 49-762.03(A)(1).	32	124	Yes	A.A.C. R18-8-307 and R18-8-1601 through R18-8-1614, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
10. Complex new special facility plan approval with no public hearing, A.R.S. § 49-762.03(A)(1).	32	103	Yes	A.A.C. R18-8-307 and R18-8-1601 through R18-8-1614, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
11. Complex new special facility plan approval with a public hearing, A.R.S. § 49-762.03(A)(1).	32	165	Yes	A.A.C. R18-8-307 and R18-8-1601 through R18-8-1614, Fee: R18-13-701 through R18-13-703, Department application form, site inspection, and initial fee required.
62. New special waste facility operation temporary authorization, A.R.S. § 49-762.03(C).	21	41	No	A.R.S. § 49-762.03(C), Site inspection required.

Arizona Administrative Register
Notices of Final Rulemaking

The remaining groups and categories are renumbered.

In categories 24 and 25, “Yes” is changed to “No” in the Sanctions columns.

Table 14, “Landfill Licenses,” is revised as follows:

Complex solid waste facility plan approval categories are deleted because these categories contained presumptive overall time-frames in excess of review times identified in statute. All applications will be processed in the basic categories identified as “standard” in the proposed rule. Standard category names are revised to delete the word “standard.” The remaining categories are renumbered to reflect this changes.

Table 17, “Hazardous Waste Licenses,” is revised as follows:

In category 17, “Hazardous waste emergency permit,” delete “Fee: A.A.C. R18-8-270(G).”

In category 17, “Hazardous waste temporary authorization request approval,” delete “Fee: A.A.C. R18-8-270(G).”

In categories 31 and 32, “Yes” is changed to “No” in the Sanctions column and the citation in the License Category column is changed from “A.A.C. R18-2-207” to “A.A.C. R18-7-207.”

Table 18, “Underground Storage Tank Licenses,” is revised to delete the corrective action plan approvals and the SAF pre-approval, direct pay, and reimbursement approvals. These are deleted in response to comment that these categories are not subject to Article 7.1 licensing time-frames requirements. The Department believes that it should revisit this issue in an amendatory rulemaking context to allow a full public discussion of the issues. By deleting these categories in today’s rule, the Department is able to move forward with the remainder of the rule. The table is revised as follows:

Table 18: Underground Storage Tank Licenses
Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements

ACRTF means Administrative Completeness Review Time-frame

SRTF means Substantive Review Time-frame

Day means business day

License Category	ACR TF	SR TF	Subject to Sanctions	Application Components
Group I: Underground Storage Tank (UST) technical requirement license.				
1. UST temporary closure extension request approval, A.R.S. § 49-1008, A.A.C. R18-12-270.	42	84	No	A.A.C. R18-12-270(F)-(G) A.A.C. R18-12-270(F)-(G) , Department application form required.
Group II: Underground Storage Tank (UST) service provider licenses.				
2. UST installation and retrofit service provider certification, A.R.S. § 49-1082, A.A.C. R18-12-803(1).	11	11	No	A.A.C. R18-12-806, Department application form required.
3. UST tightness testing service provider certification, A.R.S. § 49-1082, A.A.C. R18-12-803(2).	11	11	No	A.A.C. R18-12-806, Department application form required.
4. UST cathodic protection testing service provider certification, A.R.S. § 49-1082, A.A.C. R18-12-803(3).	11	11	No	A.A.C. R18-12-806, Department application form required.

Arizona Administrative Register
Notices of Final Rulemaking

5. UST decommissioning service provider certification, A.R.S. § 49-1082, A.A.C. R18-12-803(4).	11	11	No	A.A.C. R18-12-806, Department application form required.
6. UST interior lining service provider certification, A.R.S. § 49-1082, A.A.C. R18-12-803(5).	11	11	No	A.A.C. R18-12-806, Department application form required.

Group III: Leaking Underground Storage Tank (LUST) licenses.

7. Standard LUST corrective action plan approval with no public meeting, A.R.S. § 49-1005.	42	146	No	40 C.F.R. §§ 280.66 and 280.67.
8. Standard LUST corrective action plan approval with a public meeting, A.R.S. § 49-1005.	42	209	No	40 C.F.R. §§ 280.66 and 280.67.
9. Complex LUST corrective action plan approval with no public meeting, A.R.S. § 49-1005.	42	209	No	40 C.F.R. §§ 280.66 and 280.67.
10. Complex LUST corrective action plan approval with a public meeting, A.R.S. § 49-1005.	42	272	No	40 C.F.R. §§ 280.66 and 280.67.
11. LUST VEMUR approval, A.R.S. § 49-152(B), A.A.C. R18-7-207.	15	47	No	A.A.C. R18-7-207.

**Table 18 (Continued): Underground Storage Tank Licenses
Subject to A.R.S. § 41-1073(A) Licensing Time Frame Requirements**

ACR TF means Administrative Completeness Review Time Frame
SR TF means Substantive Review Time Frame
Day means business day

License Category	ACR TF	SR TF	Subject to Sanctions	Application Components
	Days	Days		

Group III (Continued): Leaking Underground Storage Tank (LUST) licenses.

12. LUST VEMUR cancellation approval, A.R.S. § 49-152(C), A.A.C. R18-7-207.	15	27	No	A.A.C. R18-7-207.
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Group IV: State assurance fund (SAF) licenses.

13. SAF firm pre-qualification approval, A.R.S. § 49-1052(D), A.A.C. R18-12-602, October 1, 1999	11	42	No	A.A.C. R18-12-602, Department application form required.
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Arizona Administrative Register

Notices of Final Rulemaking

14. SAF pre-approval, approval A.R.S. § 49-1052, A.A.C. R18-12-607 and R18-12-607.01.	21	42	No	A.A.C. R18-12-601, R18-12-607, and R18-12-607.01, Department application form required.
15. SAF direct payment approval, A.R.S. §§ 49-1052 and 49-1054, A.A.C. R18-12-607 and R18-12-607.01.	21	21	No	A.A.C. R18-12-601, R18-12-607, and R18-12-607.01(N) through R18-12-607.01(Q); Department application form required.
16. Standard SAF reimbursement approval, A.R.S. § 49-1052, A.A.C. R18-12-604 and R18-12-605.	42	84	No	A.A.C. R18-12-601, R18-12-604, and R18-12-605, Department application form required.
17. Complex SAF reimbursement approval, A.R.S. § 49-1052, A.A.C. R18-12-604 and R18-12-605.	42	167	No	A.A.C. R18-12-601, R18-12-604, and R18-12-605, Department application form required.

Table 19, “WQARF Remediation Licenses Issued by the Phoenix Office,” is revised as follows:

In categories 1 through 5, delete the following citations: R18-7-108 and R18-7-109.

Table 19-S, “WQARF Remediation Licenses Issued by the Southern Regional Office,” is revised as follows:

In categories 1 through 5, delete the following citations: R18-7-108 and R18-7-109.

Table 20, “Voluntary Program Remediation Licenses,” is revised as follows:

Groups II-VI and their categories, 2-26, are deleted. These categories are deleted in today's rule due to the difficulties inherent in determining whether an applicant is, in fact, the prospective licensee and therefore eligible for a refund of state monies. Applicants who are not prospective licensees are not “required by law” to obtain the license and therefore the licensing time-frames statute cannot apply to them. Although this possibility exists to a certain extent in both the underground storage tank (UST) and water quality assurance revolving fund (WQARF) remediation programs, no application fees are at stake. Fees, however, are at stake in the voluntary program and the incidence of applicants not being prospective licensees is also much higher. Payment of state monies by a state employee to persons not authorized by law to receive those monies can result in criminal penalties against the employee. The Department requested comment on how to proceed in this matter in the October 23, 1998, notice of proposed rulemaking (in the narrative discussion of Table 20) but received no comment. The Department expects to revisit this issue with the public in the coming months in preparation for the next annual housekeeping revision to this rule. The Department deletes these categories in this rulemaking so as not to delay the rest of today's rule pending resolution on this issue. The Department believes this not to be a substantial change from the proposed rule.

Groups VII and VIII are renumbered to Groups II and III. Categories 27 and 28 are renumbered to 2 and 3. Changes to the table shown in the proposed rule are as follows:

**Table 20: Voluntary Program Remediation Licenses
Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Time-frame

SRTF means Substantive Review Time-frame

Day means business day

License Category	ACR	SR	Subject	Application Components
	TF	TF	to	
	Days	Days	Sanctions	

Group I: Voluntary program acceptance license:

1. Voluntary program eligibility determination, A.R.S. §§ 49-104(A)(17) and 49-282.05.	21	21	No	A.R.S. §§ 49-104(A)(17) and 49-282.05.
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Arizona Administrative Register
Notices of Final Rulemaking

Group II: Voluntary program WQARF remediation licenses:

2. Voluntary program WQARF remedial investigation work plan approval; A.R.S. §§ 49-282.05, 49-282.06, and 49-287.03.	21	63	Yes	A.R.S. §§ 49-151, 49-152, 282.06, and 49-287.03; A.A.C. R18-7-108, R18-7-109; Fee: R18-7-201 through R18-7-209; Department application form, site inspection, and initial fee required.
3. Voluntary program WQARF feasibility study work plan approval; A.R.S. §§ 49-282.05, 49-282.06, and 49-287.03.	21	63	Yes	A.R.S. §§ 49-151, 49-152, 282.06, and 49-287.03; A.A.C. R18-7-108, R18-7-109; Fee: R18-7-201 through R18-7-209; Department application form, site inspection, and initial fee required.
4. Voluntary program WQARF standard remedial action plan (RAP) approval; A.R.S. §§ 49-282.05, 49-282.06, and 49-287.04.	21	105	Yes	A.R.S. §§ 49-151, 49-152, 282.06, and 49-287.03; A.A.C. R18-7-108, R18-7-109; Fee: R18-7-201 through R18-7-209; Department application form, site inspection, and initial fee required.
5. Voluntary program WQARF complex remedial action plan (RAP) approval; A.R.S. §§ 49-282.05, 49-282.06, and 49-287.04.	21	146	Yes	A.R.S. §§ 49-151, 49-152, 282.06, and 49-287.04; A.A.C. R18-7-108, R18-7-109; Fee: R18-7-201 through R18-7-209; Department application form, site inspection, and initial fee required.
6. Voluntary program WQARF letter of completion approval; A.R.S. § 49-285(B).	42	84	Yes	A.R.S. §§ 49-282.06 and 49-285(B); Fee: R18-7-201 through R18-7-209; Department application form, site inspection, and initial fee required.
7. Voluntary program WQARF VEMUR approval; A.R.S. § 49-152(B); A.A.C. R18-7-207.	15	47	Yes	A.A.C. R18-7-207; Fee: R18-7-201 through R18-7-209; Department application form and initial fee required.
8. Voluntary program WQARF VEMUR cancellation approval; A.R.S. § 49-152(C); A.A.C. R18-7-207.	15	27	Yes	A.A.C. R18-7-207; Fee: R18-7-201 through R18-7-209; Department application form and initial fee required.

Group III: Voluntary program nonlandfill solid waste remediation licenses:

9. Voluntary program standard nonlandfill solid waste remediation work plan approval; A.R.S. § 49-104(A)(17).	21	63	Yes	A.R.S. § 49-104(A)(17); Department application form, site inspection, and initial fee required.
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**Table 20 (Continued): Voluntary Program Remediation Licenses
Subject to A.R.S. § 41-1073(A) Licensing Time Frame Requirements**

ACRTF means Administrative Completeness Review Time Frame

SRTF means Substantive Review Time Frame

Day means business day

Arizona Administrative Register
Notices of Final Rulemaking

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group III (Continued): Voluntary program nonlandfill solid waste remediation licenses.				
10. Voluntary program complex nonlandfill solid waste remedial work plan approval; A.R.S. § 49-104(A)(17).	21	84	Yes	A.R.S. § 49-104(A)(17); Department application form, site inspection, and initial fee required.
11. Voluntary program nonlandfill solid waste VEMUR approval; A.R.S. §§ 49-104(A)(17) and 49-152(B); A.A.C. R18-7-207.	15	47	Yes	A.A.C. R18-7-207; Department application form and initial fee required.
12. Voluntary program nonlandfill solid waste VEMUR cancellation approval; A.R.S. §§ 49-104(A)(17) and 49-152(C); A.A.C. R18-7-207.	15	27	Yes	A.A.C. R18-7-207; Department application form and initial fee required.
Group IV: Voluntary program special waste remediation licenses.				
13. Voluntary program standard special waste remediation work plan approval; A.R.S. § 49-104(A)(17).	21	63	Yes	A.R.S. § 49-104(A)(17); Department application form, site inspection, and initial fee required.
14. Voluntary program complex special waste remediation work plan approval; A.R.S. § 49-104(A)(17).	21	84	Yes	A.R.S. § 49-104(A)(17); Department application form, site inspection, and initial fee required.
15. Voluntary program special waste VEMUR approval; A.R.S. §§ 49-104(A)(17) and 49-152(B); A.A.C. R18-7-207.	15	47	Yes	A.A.C. R18-7-207; Department application form and initial fee required.
16. Voluntary program special waste VEMUR cancellation approval; A.R.S. §§ 49-104(A)(17) and 49-152(C); A.A.C. R18-7-207.	15	27	Yes	A.A.C. R18-7-207; Department application form and initial fee required.
Group V: Voluntary program hazardous waste remediation licenses.				
17. Voluntary program standard hazardous waste remediation work plan approval; A.R.S. § 49-104(A)(17).	21	63	Yes	A.R.S. § 49-104(A)(17); Department application form, site inspection, and initial fee required.
18. Voluntary program complex hazardous waste remediation work plan approval; A.R.S. § 49-104(A)(17).	21	84	Yes	A.R.S. § 49-104(A)(17); Department application form, site inspection, and initial fee required.
19. Voluntary program hazardous waste VEMUR approval; A.R.S. §§ 49-104(A)(17) and 49-152(B); A.A.C. R18-7-207.	15	47	Yes	A.A.C. R18-7-207; Department application form and initial fee required.

Arizona Administrative Register
Notices of Final Rulemaking

**Table 20 (Continued): Voluntary Program Remediation Licenses
Subject to A.R.S. § 41-1073(A) Licensing Time-frame Requirements**

ACRTF means Administrative Completeness Review Time-frame

SRTF means Substantive Review Time-frame

Day means business day

License Category	ACR TF Days	SR TF Days	Subject to Sanctions	Application Components
Group V (Continued): Voluntary program hazardous waste remediation licenses.				
20. Voluntary program hazardous waste VEMUR cancellation approval, A.R.S. §§ 49-104(A)(17) and 49-152(C); A.A.C. R18-7-207.	15	27	Yes	A.A.C. R18-7-207, Department application form and initial fee required.
Group VI: Voluntary program leaking underground storage tank (LUST) remediation licenses.				
21. Voluntary program standard LUST corrective action plan (CAP) approval with no public meeting, A.R.S. §§ 49-104(17) and 49-1005.	42	146	Yes	A.R.S. § 49-1005, Department application form, site inspection, and initial fee required.
22. Voluntary program standard LUST corrective action plan (CAP) approval with a public meeting, A.R.S. §§ 49-104(17) and 49-1005.	42	209	Yes	A.R.S. § 49-1005, Department application form, site inspection, and initial fee required.
23. Voluntary program complex LUST corrective action plan (CAP) approval with no public meeting, A.R.S. §§ 49-104(17) and 49-1005.	42	209	Yes	A.R.S. § 49-1005, Department application form, site inspection, and initial fee required.
24. Voluntary program complex LUST corrective action plan (CAP) approval with a public meeting, A.R.S. §§ 49-104(17) and 49-1005.	42	272	Yes	A.R.S. § 49-1005, Department application form, site inspection, and initial fee required.
25. Voluntary program LUST VEMUR approval, A.R.S. §§ 49-104(A)(17) and 49-152(B); A.A.C. R18-7-207.	15	47	Yes	A.A.C. R18-7-207, Department application form and initial fee required.
26. Voluntary program LUST VEMUR cancellation approval, A.R.S. §§ 49-104(A)(17) and 49-152(C); A.A.C. R18-7-207.	15	27	Yes	A.A.C. R18-7-207, Department application form and initial fee required.
Group II-VII: Voluntary program greenfields remediation license:				
2-27. Voluntary program greenfields notice-to-proceed (NTP) approval, A.R.S. § 49-154(C).	5	5	No	A.R.S. § 49-154(C), Department application form required.

Group ~~III-VIII~~: Voluntary program brownfields remediation license:

<p>3-28. Voluntary program brownfields certification, Governor letter to EPA of August 29, 1997, concerning the "designation of the Arizona Department of Environmental Quality as A State Environmental Agency pursuant to Section 198(c)(1)(C)" of the federal Taxpayer Relief Act of 1997.</p>	<p>21 21 No</p>	<p>Section 198(c)(1)(C) of the Taxpayer Relief Act of 1997, Department application form required.</p>
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Table 21, "Pollution Prevention Licenses," is revised as follows to reduce ambiguity:

The name of category 1 is changed from "State agency generation level pre-approval" to "State agency hazardous waste generation level pre-approval."

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

Introduction to comments. The Department interprets a number of the following comments as requesting the Department to restrict a number of actions allowed by the rule including the ability to make more than 1 request for additional information. As explained under the analysis of statutory objectives at § 6(E)(1), for all licenses appearing in today's rule, applicants clearly bear the statutory burden to submit proof of eligibility to the Department (in the form of "application components") before the Department gains the statutory authority to issue the license. This means that Arizona law prohibits approvals by default for these licenses. Anything that restricts the Department from informing applicants that applications are incomplete inevitably means an increase in application denials. The Department believes that although the licensing time-frame statute expects the Department to assist applicants towards fashioning an approvable application in a number of ways, the basic statutory burden remains unchanged on applicants to prove eligibility.

During the informal public participation period of this rule making, the Department received numerous informal comments that suggested the opposite: (1) that applicants had a right to approvals by default unless the Department discovered a flaw in the application prior to the expiration of the time-frames, (2) that failure by the Department to identify a defect during the administrative completeness time-frame means that the Department can never again ask for the information and must grant the permit even in the absence of the information, and (3) that the Department is prohibited from making more than 1 request for additional information during the substantive review time-frame and that if not asked for in the 1 request, the Department must now grant the license in the absence of the information. These views clearly regard the time-frame concept as one in which the applicant gains a right to a license at the time of making an initial application and that the Department has only a limited ability to disqualify the applicant before the license is granted by default. This, the Department believes, is in direct conflict with Arizona law. The Department has found that many persons holding these views also tend to desire very short time-frames, highly abbreviated time-frame suspension provisions, and rigid restrictions on the Department's ability to inform applicants of application deficiencies. The Department has also found that many who have told the Department that they also hold the same basic interpretation of Arizona law as does the Department have requested the Department to lengthen time-frames, provide for suspensions under certain circumstances, and expressly confirm in rule the Department's ability to inform applicants of defective applications. Most of the following comments and the Department's responses can best be understood within the context and tension created between these opposing views and goals.

Although the Department received a number of comments on the proposed rule text and tables, the Department received no direct comment during the formal comment period on the statutory objectives analyzed in detail or the discussion of mitigation measures contained in the rule and analyzed in the preliminary economic impact statement in the preamble (and repeated in this notice at § 9(G)). After close of the rulemaking record and submission of a notice of final rulemaking to the governor's regulatory review council (GRRC) in December 1998, the Department received numerous comments from GRRC, the attorney general's office (AGO), and others on exactly these points. Within the context of GRRC review, the Department has modified this notice of final rulemaking to take these additional comments into account. These comments concerned the following primary issues: (1) time-frame suspension provisions (most must be deleted), (2) application lapse from time-frames provisions (all must be deleted), and (3) use of time-frames and time-frame clocks as a separate concept (clocks must be deleted). The Department believes these comments and requirements imposed by GRRC on the statutory objectives, economic impact, and rule impact reduction

Arizona Administrative Register
Notices of Final Rulemaking

analyses contained in the preamble require the structure of today's rule. If today's rule is determined to be improper, the Department must revise its determination of these comments in regards to of the required statutory objectives and other analyses contained in the preamble and upon which this rule rests.

Comment 1. R18-1-501(1). Change this definition as follows:

“Administrative completeness” or “administratively complete” means Department receipt of all application components required by this Article sufficient to allow the Department to issue a notice of administrative completeness under A.R.S. § 41-1074. Issuance of a notice of administrative completeness ends and thereby end the administrative completeness review time-frame clock and starts ~~start~~ the substantive review time-frame clock ~~but does not mean statutory administrative completeness.~~

Response. The alternative word form should be added and the Department has made this change. The 2nd change would add more words to obtain an equivalent meaning. The Department believes that the word “thereby” in this context is clear and concise. The Department had believed the last phrase necessary in order to clarify that similar terms in statutes other than Article 7.1 do not operate in accordance with this Article. The Department found that this was a significant misunderstanding during the public workshops. Although striking the last phrase may increase rather than diminish this misunderstanding, the Department agrees to make this change.

Comment 2. R18-1-501(2). Change this definition as follows:

“Administrative completeness review” means clerical verification by the Department that the submitted application has all components required by statute or rule for ~~meet the requirements of~~ administrative completeness.

Response. No change to the proposed rule. The 1st change alters the meaning of the term “application components,” a term used throughout this Article. The 2nd change also alters the meaning and scope of the definition. As proposed, the language incorporates the phrase “required by statute or rule” through the defined term “administrative completeness” under R18-1-501(1) plus other concepts such as “receipt” contained in that definition. The change would not accomplish this. The Department, however, has made other clarifications to this definition as shown in § 10 above.

Comment 3. R18-1-501(3). [Now deleted.] Delete this definition as unnecessary.

Response. The Department agrees to this change. The reason the Department had included a definition for the “administrative completeness review time-frame” was to distinguish it from “administrative completeness review time-frame clock,” a companion term. The Department had introduced the concept of “time-frame clocks” operating within the “time-frames” was to avoid what it had identified as a serious ambiguity identified in Article 7.1. That ambiguity concerns the validity of public hearings and notices that might occur during a suspension period during the substantive review time-frame, during a time-frame extension, or after the expiration of all time-frames. This is an issue that may be unique to the Department and not a part of the licensing processes at other state agencies that do not have statutory requirements to hold hearings on proposed permits prior to issuance.

Article 7.1 requires that “[a]ny public notice and hearings required by law shall fall within the substantive review time-frame. A.R.S. § 41-1072(3) (emphasis added). On its face, 1 meaning of this requirement is that hearings or the notices proceeding them must not occur during time-frame suspensions, during time-frame extension, or after the overall time-frame expiration. If true, these occurrences would invalidate the validity of a public hearing (or required continuous public notice) occurring during a suspension or after expiration and would deny the Department authority to make any decision to grant the license. The Department has determined that this result cannot be a possible meaning of Article 7.1 when harmonized with other requirements with Article 7.1 and other statutes that require the Department to grant a license if certain conditions are met and without regard to the expiration of the overall time-frame. Under its duty to harmonize competing statutes, give meaning to all parts of every statute, and avoid absurd results, the Department had determined that it must develop specific and detailed definitions for all 3 time-frames and introduce the concept of clocks that operate within the time-frames. Under the proposed rule, (1) it was the clocks that suspended, not the time-frames themselves and (2) the substantive review time-frame continued until such time as a final licensing decision was made, even if that occurred after the expiration of the overall time-frame. Sanction would then be determined by expiration of the clocks, not the time-frames. This would allow the rule to operate as intended by Article 7.1. The Department had determined that this interpretation was not prohibited by the plain meaning of the statute and represented the least amount of harmonization necessary to avoid the absurd result that once the overall time-frame expired (or a substantive review time-frame expired), the Department would lose all authority to hold a required public hearing and therefore lose all authority to make a licensing decision to grant. Further discussion on this occurs in the preamble at §§ 5(E)(3)(c) (“substantive review time-frame”). GRRC objected to this approach as it believed that the use of time-frame clocks as proposed, in fact, would mean that the Department would never be subject to sanctions no matter how late because the time-frames would continue until the licensing decision was actually made. The Department disagrees with this analysis but has received assurances from the AGO that deletion of the

Arizona Administrative Register
Notices of Final Rulemaking

time-frame clock concept from today's rule will not cloud the legality of public hearings as discussed above. For this reason, the Department has deleted the time-frame clock concept from today's rule. This means that several definitions from the proposed rule are deleted from today's rule including this definition.

Comment 4. R18-1-501(3) [now deleted] and R18-1-503(A)(7). Delete this definition at R18-1-501(3). The definition of "administrative completeness review time-frame," contradicts the statutory definition at A.R.S. §41-1072(1). The statute states that the time-frame is 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. . ." A.R.S. §41-1072(1). By contrast, the rule states that the administrative completeness time-frame is "the entire period after Department receipt of an applicant's 1st acceptable application component submittal under R18-1-503(A) until the starting of the substantive review time-frame." R18-1-501(3). Under proposed section 503(A)(7), an application is not acceptable until "all application components required by statute or rule" are included. In short, the Department is starting the time-frame clock for administrative completeness at the time the statute mandates that it be concluded. This is not what the legislature intended. The statutory definition is clear and understandable and it is not clear why the Department needs to interpret this definition. What is deemed an "acceptable" application component submittal? At worst, this implies some sort of after-the-fact review, whereby ADEQ would review an application component and if it were later deemed not acceptable for some reason, determine that the time clock never started. At best, the term is undefined and potentially confusing. The same comment applies to R18-1-501(22) [now deleted], R18-1-502(A)(12), and R18-1-503(A), which also refer to "acceptable" application components.

Response: The Department has made several changes in today's rule in response to this and the previous comment. This includes deleting several definitions as described in the previous comment as well as deleting the qualifier "acceptable" as identified in this comment. The Department, however, disagrees that the definition as proposed contradicted the statutory definition. The statute defines some, but not all, elements of the starting, suspending, resuming, expiring, and ending of the time-frames. The Department must interpret the statute as necessary to give certainty and meaning to these events critical to the determination of the running of the time-frames. The Department had proposed in rule only those elements it believed essential to the determination of all these events with certainty. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above. The Department has authority to interpret and implement a statute in this manner under A.R.S. § 41-1001(17). In response to the previous comment and with assurances from the AGO, however, the Department has now agreed to delete the time-frame clock concept from today's rule.

The Department has also deleted the qualifier, "acceptable," in today's rule. The term probably does not add significant meaning and may confuse more than help understanding. Still, the Department cannot be expected to expend tracking, processing, and reporting resources on an "application" that is so manifestly incomplete that any meaningful review is pointless. The Department also believes that applicants who do not wish to submit all required application components in the initial submittal should take reasonable steps to enter into a preapplication licensing time-frames agreement under R18-1-508 that coordinates phased submittals. The Department does agree that application review and time-frames should commence on any application that appears in good faith to be presumptively complete or on any application for which the applicant has conducted reasonable preapplication coordination with the Department.

In response to this comment, the Department has added a specific limitation at R18-1-503(I) on the Department's ability to reject applications as so defective that no time-frames clocks will be recorded as starting on the application. This provision allows the Department 5 days after the starting of the time-frames clocks to notify the applicant that the application is so defective that the application will not be subject to this Article.

In regards to the objection to the requirement contained in R18-1-503(A)(7) that the applicant shall submit all application components required by statute or rule at the time of the initial application, the Department believes that this is exactly what the statute requires. Time-frames, then, represent a discovery process during which the Department 1st determines whether what was submitted is administratively complete and then, second, whether it is substantively complete. Discovery that the initial submittal was not, in fact, complete may trigger certain suspension and extension provisions under the statute. An interpretation that all components are not required in the initial submittal must mean that the Department is required to process an application with the applicant submitting components in an unpredictably piecemeal fashion while the time-frames are running. If true, this would require the Department to increase time-frames to accommodate this lack of coordination and applicant preparation, something the Department does not believe is intended by the statute. See additional discussion on these points beginning in the preamble at § 5(E)(3)(a), "license application submission."

Comment 5. R18-1-501(4). [Now deleted.] Instead of 3 separate definitions for administrative completeness, substantive review, and overall time-frame clock, define only "clock" or "time-frame clock." In lieu of this, change this definition as follows:

Arizona Administrative Register
Notices of Final Rulemaking

“Administrative completeness review time-frame clock” means the device used in this Article to account for the passage or suspension of time counting and assignment of certain days within the administrative completeness review licensing time-frame under A.R.S. § 41-1074.

and add the following new definitions:

“Time-frame” means a finite period of time, measured in days.

“Time-frame clock” means the device used in this Article to account for the passage or suspension of time within a time-frame.

Response. The Department has deleted these definitions. See Comment 3 above for more information.

Comment 6. R18-1-501(4). [Was R18-1-501(6).] Change this definition as follows:

“Applicant response” means a written response from the applicant to a Department notice that complies with all the following:

- a. The response identifies the applicant listing the applicant’s name, address, and telephone number.
- b. The response identifies the Department notice.
- c. The response is addressed to the Department employee identified in the Department notice as the designated recipient of the notice.
- d. The response contains the information or component requested by identified the Department notice.
- e. The response identifies the license category.

Response. The Department has made other changes to subsection (4)(d) but, otherwise, no change to the proposed rule. The Department has determined that the additional requirements suggested for subsections (4)(a) and (e) are unnecessary and that the change suggested for subsection (d) may be interpreted as an attempt to exercise Department discretion in excess of its statutory authority. The term “information” does not need to be expanded to include “information or component” because Article 7.1 uses the term “information” to mean everything required by statute or rule. The inclusion of the word “requested” may be misinterpreted by applicants to mean that the Department is able to “request” information in excess of that already identified in statute or rule and to be able to suspend the time-frames until such gratuitous or otherwise nonrequired information is supplied. The Department, however, has made other clarifying changes to subsection (4)(d) as described in response to the next comment.

Comment 7. R18-1-501(4). [Was R18-1-501(6).] The definition of “applicant response” is problematic. In order for a response to be considered an “applicant response,” it must contain 4 elements. One of those elements is substantive. That substantive element requires that the response contain “the information identified [sic] the Department notice.” Consequently, in order to be a valid “applicant response” the response must contain the information requested by the Department. What if the information requested by the Department does not exist?. What if the Department requests unreasonable amounts or types of information? What if the information requested by the Department is not necessary after an appropriate explanation? Making this a rigid element of the definition of “applicant response” may injure the applicant. Presumably, the applicant’s recourse in such a situation is to file a notice of intent to rely on the application components submitted (R18-1-520). A cross reference to that rule might be appropriate in this definition (specifically in subsection (4)(d)).

Response. The Department has modified the term, “information,” to “required information,” in subsection (4)(d) and added a reference to R18-1-520. The Department has authority only to ask for information required by statute or rule and necessary to make a determination to grant a license under A.R.S. § 41-1030(B) and other statutes. The Department has no authority to require an applicant to supply information in excess of that necessary to comply with A.R.S. § 41-1030(B) within the context of a license application. An applicant is not required to submit information that is, in fact, unnecessary, or is unreasonable. Claims of injury can be handled under R18-1-520 or other appeal processes. The Department believes that modifying the definition so that an applicant will comply with the requirement to submit required information without submitting any substantive or responsive information will tend to make requests for additional information pointless. Today’s rule imposes limits on the Department’s ability to control the restarting of time-frames after receipt of an applicant response. See R18-1-503(E) and R18-1-504(E). Today’s rule does not control more than this. Whether an applicant has, in fact, submitted all information required by statute or rule and necessary for the Department to make a decision to grant a license is one controlled by other statutes and rules, not today’s rule. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above.

Comment 8. R18-1-501(6). [Was R18-1-501(8).] Change this definition as follows:

“Application clerk” means a Department employee with authority to receive applications for the specific license category identified on the submitted application component or applicant response.

Arizona Administrative Register
Notices of Final Rulemaking

Response. No change to the proposed rule. The Department has determined that the suggested qualification represents a restrictive and unnecessary burden on applicants because it requires the applicant to identify the license category on every response, something the Department believes unnecessary and will not require in practice.

Comment 9. R18-1-501(9). [Was R18-1-501(10).] The definition of “complex” is not clear. The definition does not have any set guidelines or principles by which the regulated party would be able to understand or anticipate that its application will be subject to extended time-frames. The threshold for the determination of a complex application appears to be that the application requires “a significant increase in Department resources.” It is unclear what is significant. The regulated community is concerned that this may be a way for the Department to unilaterally extend the time-frame without just cause.

Response. The Department has made several changes in response to this comment and agrees that operation of this provision may prove problematic although the Department does not have unilateral authority to require its use. R18-1-521 makes clear that it is the applicant, not the Department, that has ultimate control over the use of a complex category. The Department has included the “standard/complex” element in this rule, however, in direct response to repeated requests by stakeholders attending the workshops that the Department must have the ability to give certain applicants more time in excess of just a bare adherence to time-frames requirements. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above. The Department stated in the preamble that it expects to use the complex category option in no more than 5-10% of all applications received in the safe drinking water and wastewater construction approval licenses governed by Tables 5, 6, and 7. See more on this point in the explanation to Table 5 at § 6(H) above. For all the rest of the licensing programs, the Department expects to process no more than approximately 20 applications annually in complex categories: perhaps 1 or 2 each on Tables 1, 2, 12, 13, 14, and 19, and perhaps 1-4 each on Tables 10 and 18. This estimate is based on Department experience. No complex categories are shown on Tables 3, 4, 8, 9, 11, 16, 17, 20, 21, and 22. Actual use of the complex category option will be tracked and stakeholders will be able to assess Department performance. Changes to this provision can be made in the annual housekeeping rulemaking the Department expects to conduct on this Article.

Changes made in today’s rule in response to this comment include a clarification of the definition of “complex, the addition of a definition for “companion category,” and the inclusion of the process the Department will use to administer the use of complex categories at R18-1-503(A)(4).

Comment 10. R18-1-501(10). [Was R18-1-501(11).] The definition of “day” is confusing. It will be very difficult for the regulated party to anticipate the appropriate day if it does not have ready access to the “state holidays.” A list of state holidays should be made available or its location easily identified for the applicant to find. Additionally, it is difficult to calculate business days for those categories with lengthy time-frames.

Response. No change to the proposed rule. The Department has strong reasons for using business days in that it puts all applications on an equal footing no matter the day of the week or month of the year submitted. See more on this point in the preamble at § 6(E)(3)(e), “counting of time-frame days.” Today’s rule is organized so that all times during which an applicant is required to perform some action is presented in calendar times (months, calendar days) while times during which the Department is required to perform some action is presented in business days. The Department has developed a computer tracking system that does all the time calculations automatically and converts them to calendar dates. Applicants will all have the name and telephone number of a Department employee who can answer questions concerning their application including the progress of the time-frame clocks. The conversion table shown at § 6(E)(3)(e) of the preamble and a list of state holidays will be included in a summary explanation of licensing-time frames requirements contained in the next edition of the Department’s permit handbook, a document that is freely available to all prospective applicants and reasonably well known by current licensees. In addition, the Department has established a central information group who will be highly trained in today’s rule and who will be able to answer questions and offer guidance in complying with this Article, the licensing time-frames statute, and other statutes and rules governing license application and review procedures.

Comment 11. R18-1-501(11)(c). [Was R18-1-501(12)(c).] Is notice to an electronic address reliable or legal?

Response. No change to the proposed rule. This rule allows electronic notice only if specifically authorized by the applicant. The Department received numerous requests during the informal public workshops to make such an option available in this rule. These same commenters informed the Department that they believed electronic notice (e-mail) provided a comparable level of reliability as the post. As for the legality of the provision, A.R.S. § 41-1004 expressly gives applicants the ability to “waive any right conferred on that person” by a provision of the administrative procedure act include licensing time-frames. Today’s rule requires applicants to request electronic notification before the Department gains authority to count such notice as meeting the requirements of the rule.

Comment 12. R18-1-501(11) and R18-1-501(12) [was R18-1-501(12) and R18-1-501(13)]. There is an inconsistency between the triggers for signaling “Department notification,” and for signaling “Department receipt.” Under the definition of “Department notification,” the Department is presumed to have given notice on the date of the postmark.

Arizona Administrative Register
Notices of Final Rulemaking

Under the definition of “Department receipt,” the Department is not presumed to have received the communication until 5 days after it is postmarked. Providing that ADEQ notices are effective on the date of postmark is both good and bad. On the plus side, if ADEQ is notifying an applicant of (for example) administrative completeness, having the notice effective on the date of postmark essentially starts the substantive review time clock running sooner than if the date of receipt were used. On the negative side, it may put the applicant in a very disadvantageous position. The time-frame for the applicant to respond is cut dramatically. The time-frame for the Department is conversely expanded. The notice provisions should be equal and fair.

Response. No change to the proposed rule except minor clarification to R18-1-501(12) subsections (a) and (c). The Department believes that the determinations of notice and receipt as defined in the rule are extremely fair for the applicant and disagrees that the time is unfairly expanded for the benefit of the Department and that the time for applicant response is cut dramatically. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above. These definitions serve primarily to define the time so that the time-frames are moving forward only when the Department is able to proceed with application review (after the receipt of information) and not during the time the Department is still waiting to receive that information due to a notice of administrative deficiencies or a request for additional information.

In constructing these definitions, the Department started with the widely used business and legal practice of adding 5 days to the date of a postmark to determine presumptive receipt. This benefits applicants in that it provides a high degree of prospective certainty, a key legislative goal of Article 7.1. In the proposed rule, the Department used the concept of a lapse date to set the time within which an applicant must respond in order to keep the application subject to time-frames. The lapse date concept is deleted from today’s rule. This means that the question of when a response is so late that the Department should now deny an application is not governed by today’s rule. These determinations will be handled under the individual program statutes and rules using established principles of Arizona administrative law.

Comment 13. R18-1-501(12). [Was R18-1-501(13).] Change this definition as follows:

“Department receipt” of an application component or an applicant response means 1 of the following days, whichever is later:

...

~~d. If during an application moratorium or time frame suspension declared under R18-1-518, the day after the moratorium or suspension ends.~~

Subsection (12)(d) should be deleted because R18-1-518 should also be deleted.

Response. The Department disagrees and has not deleted subsection (12)(d) of the proposed rule. See additional explanation and discussion on this point at §§ 6(E)(3) and 6(G)(2) of the preamble and Comments 108 and 110.

Comment 14. R18-2-501(13)(a). [Was R18-1-501(13)(a).] For an applicant’s submission to be considered received by ADEQ when hand-delivered, it apparently must be “handed to an application clerk” (defined as an ADEQ employee with authority to receive applicants for the specific license identified on the submission) “by the applicant.” Delivery to the front desk at ADEQ presumably would not satisfy this requirement (unless the front desk employees were deemed to be application clerks for every program). Instead, the document would have to be handed to someone with authority over the particular license program in question. This could prove to be a trap for the unwary (e.g., documents delivered to ADEQ on the date a submission was due could be held to be untimely because they were not hand delivered to an application clerk). In addition, use of the phrase “by the applicant” suggests that the use of delivery services will not satisfy this requirement. These provisions are unnecessarily stringent and complicated, and may prove difficult for less sophisticated applicants to comply with.

Response. The Department disagrees. In accordance with A.R.S. 41-1079, all prospective applicants will be given written materials that describe all the steps necessary in the application process including who will receive submittals. The Department is initiating a special application receipt counter at the Phoenix, Northern Regional, and Southern Regional offices that will receive initial application submittals for almost all categories shown in today’s rule. Further submittals are only required in response to Department notifications of deficient applications under this Article. All Department notifications will identify exactly whom the submittal is to be addressed. Today’s rule does not prohibit applicants from using delivery services or other agents to make submittals. Under the Arizona law of agency, an applicant’s agent is the applicant as far as the Department is concerned. Use of the term “applicant or applicant’s agent” probably is a tautology as far as this Article is concerned.

Department experience is that some degree of control must be maintained as to when the time-frames should start or resume due to Department receipt of an application submittal. It is not unusual that an applicant for, say, a wastewater permit may mail a submittal to a Department employee in the Air Division with no identifying information as to what the submittal concerns. Finding the proper destination for quasi-anonymous submittals can take time. Failure by an

Arizona Administrative Register
Notices of Final Rulemaking

applicant to follow basic directions as to where to make a submittal should not result in the time-frame running and the Department not even know that it is running.

Comment 15. R18-1-501(x). Add a new definition as follows:

“Expiration” means that the number of days allotted for a time-frame has run out.

Response. No change to the proposed rule. The Department has determined that the plain meaning of “expiration” is sufficient to meet the needs of this rule. The suggested language may well raise more ambiguities than it might resolve in that it might suggest that the plain meaning does not apply in this Article.

Comment 16. R18-1-501(14). [Was R18-1-501(15). Change this definition as follows:

“Fee excusal” means the sanction imposed on a Department fund under A.R.S. § 41-1077(A) that requires the Department to excuse payment of further fees that have not yet been paid by ~~required from~~ the applicant by the Department.

Response. No change to the proposed rule. The Department believes the proposed language is clearer and more precise than the suggested language.

Comment 17. R18-1-501(14) [was R18-1-501(15)]. The term “fee excusal” should be “excused fee.”

Response. No change to the proposed rule. “Excusal” is a plain English word as is defined in *Webster’s Third New International Dictionary* as especially appropriate for use when a fee is involved.

Comment 18. R18-1-501(17). [Now deleted.] Add a comma to the 1st sentence of this definition after “notification” as follows:

“Lapsed application” means an application that has ceased to be subject to this Article due to the applicant’s failure to submit a timely response to a Department notification, made under this Article.

Response. The Department has deleted this definition as explained in the next comment.

Comment 19. R18-1-501(17). [Now deleted.] Delete this definition and all provisions of the rule that provide for the lapse of an application from this Article. The Department has authority under Article 7.1 to announce in rule that an application can be deemed withdrawn and no longer subject to time-frames should an applicant fail to respond to a request for additional information within a fixed period of time. The Department, however, does not have authority to continue to allow an application to be subject to review if, at the same time, it is not also subject to this Article.

Response. The Department has deleted this definition and all references to lapse in today’s rule in response to objections from GRRC that the Department had exceeded its authority in the proposed rule. See also response to Comment 12.

The Department is aware that each agency has followed its own interpretation of Article 7.1 when implementing time-frames in rule. The Department of Real Estate, for example, shows 4 time-frames: the standard administrative completeness review and substantive review time-frames described in statute plus 2 time-frames that apply to applicants (one in each of the 2 main time-frames) and which provide that if the applicant fails to submit a response to requests for additional information, the application will be withdrawn and the application fee forfeited. The Department has analyzed this interpretation of Article 7.1 (one that has been approved by GRRC) and determined that this approach is sure to result in many unnecessarily harsh impacts on applicants. For this reason (and because the concept of lapse or withdrawal is not mentioned in Article 7.1), the Department has decided to delete all references to lapse in today’s rule. This means that lapse and withdrawal will continue to be issues governed by existing program statutes and rules and will not be addressed in today’s rule.

Comment 20. R18-1-501(22). [Now deleted.] Change the 1st sentence of this definition as follows:

“Overall time-frame” has the meaning prescribed in A.R.S. § 41-1072(2). The Department interprets this term to mean the entire period, measured in days and listed in the license table, after the ~~from~~ Department receives ~~receipt of~~ an applicant’s 1st application component submittal under R18-1-503(A) until the Department notifies the applicant of its determination to grant or deny the license under R18-1-507(A).

Response. The Department has deleted this definition for the reasons given in response to Comment 3 above.

Comment 21. R18-1-501(22). [Now deleted.] The definition of “overall time-frame” misconstrues the statutory intent of A.R.S. § 41-1072(1). The Department has improperly interpreted “administrative completeness review.” The statutory definition is clear and understandable. Why does the Department need to interpret this definition?

Response. The Department has deleted this definition for the reasons given in response to Comment 3 above.

Arizona Administrative Register
Notices of Final Rulemaking

Comment 22. R18-1-501(23). [Now deleted.] Change this definition, “overall time-frame clock,” to read in a manner similar to that suggested in Comment 5.

Response. The Department has deleted this definition for the reasons given in response to Comment 3 above.

Comment 23. R18-1-501(22). [was R18-1-501(26)]. This definition should not exist. “Pre-application,” is that time-frame envisioned by the Legislature as “administrative completeness review.”

Response. No change to the proposed rule. The Department disagrees with this interpretation of statute. The Legislature clearly envisioned that “administrative completeness review” commence upon the submission of the application, not before.

Comment 24. R18-1-501(25). [Was R18-1-501(28).] Add a comma to this definition before “caused” in a manner to that suggested in Comment 18.

Response. No change to the proposed rule for the same reason given in the response to Comment 18.

Comment 25. R18-1-501(33) through R18-1-501(35). [Now deleted.] Delete these definitions from this rule because they do not appear in the rule text. In addition, the definition of “statutory administrative completeness” should be deleted because an application cannot be “administratively complete” unless an agency has everything it needs from the applicant to make a licensing decision. Everything would include anything required under statutes other than those in A.R.S. §§ 41-1072 through 41-1079. (Emphasis in original comment.)

Response. The Department has deleted these 3 definitions even though it disagrees with this analysis. If true, there would be no authority for the Department to ever make a request for additional information during the substantive review time-frame, enter into a supplemental request agreement, or require an applicant to respond to relevant points raised during a public hearing because all these events occur after an application is “administratively complete.” The licensing time-frame statute (Article 7.1), however, clearly addresses the possibility that applicants may be required to respond to these 3 post-administrative completeness deficiencies. This comment illustrates the possibility that an applicant may misunderstand the limited nature and legal effect of achieving “administrative completeness” as defined under statutes other than Article 7.1. It was to avoid exactly this misunderstanding that these definitions were included in the proposed rule. The Department has deleted these definitions in response to objections by GRRC and assurances by the AGO that deletion would not increase applicant uncertainty over the legal status of time-frames identified in statutes other than Article 7.1.

These defined terms were used in the proposed rule text as follows:

R18-1-501(34) was found used at R18-1-501(1) and R18-1-501(35).

R18-1-501(35) was found used at R18-1-501(3).

R18-1-501(36) was found used at R18-1-501(23).

Comment 26. R18-1-501(29). [Was R18-1-501(36).] The definition of “substantive review” is confusing. It is unclear what is meant by the phrase, “nor does it include Department investigations resulting from reporting or notification requirements.” The definition of “substantive review time-frame” put forth in statute indicates that it includes all actions of the Department after the “administrative completeness review” and until the agency determines whether or not to issue a license. Therefore, the investigations noted in R18-1-501(37) appear to be included within the legislative definition of substantive review.

Response. No change to the proposed rule. The Department disagrees that investigations are subject to Article 7.1 and for this reason clarified its understanding in this rule. See additional discussion on these points at Comments 4 and 21 and §§ 6(E)(3) and 6(G)(2) above.

Comment 27. R18-1-501(29). [Was R18-1-501(36).] Change this definition as follows:

“Substantive review” means the qualitative evaluation by the Department of whether an application, including each application component or an applicant, meets all substantive criteria required by statute or rule ~~application components and does not include clerical verification of the components nor does it include Department investigations resulting from reporting or notification requirements.~~

Response. The Department has made some, but not all, suggested changes to the proposed rule. The Department believes the proposed language generally is clearer than that suggested in the comment. First, the Department does not distinguish between the evaluation of “application components” and the “applicant.” Second, the introduction of the statutory term “substantive criteria” (without more) in lieu of “all requirements” is sure to reduce meaning and clarity. Is “substantive criteria” the same as, or only a subset of, “all requirements”? The Department is required by

Arizona Administrative Register
Notices of Final Rulemaking

statute to evaluate “all requirements” and, therefore, has given clear meaning to the statutory term “substantive criteria” in the language of this definition. The Department, however, has added the “required by statute or rule” clarification.

Comment 28. R18-1-501(37). [Now deleted.] Change this definition as follows:

“Substantive review time-frame” has the meaning prescribed in A.R.S. § 41-1072(3). The Department interprets this term to mean the entire period, measured in days and listed in the license tables, after an application is deemed administratively complete ~~after the end of the administrative completeness review time frame~~ until either the Department makes a licensing ~~determination decision~~ or the applicant causes the time-frame clocks to end under R18-1-507. The substantive review time-frame does not include days for ~~includes~~ time-frame clock suspension ~~or~~ and time-frame extension periods.

Response. The Department has deleted this definition for the reasons given in the response to Comment 3.

Comment 29. R18-1-501(37). [Now deleted.] The definition of “substantive review time-frame” improperly expands the same statutory definition found at A.R.S. § 41-1072(3). The statutory definition does not allow for the expiration of this review period by applicant activity. Rather, only the Department can take action to cause this time-frame to expire. By contrast, the Department’s proposed definition of “substantive review time-frame” adds elements which provide for the expiration of the time-frame upon applicant response or lack thereof. Therefore, R18-1-507 does not properly establish when a substantive time-frame can expire. The statutory definition is clear and understandable. Why does the Department need to interpret this definition?

Response. The Department has deleted this definition for the reasons given in the response to Comment 3.

Comment 30. R18-1-501(38). [Now deleted.] Change this definition to read in a manner similar to that suggested in Comment 5 as follows:

“Substantive review time-frame clock” means the device used in this Article to account for the passage or suspension of time counting ~~and assignment of certain days~~ within the substantive review licensing time-frame under A.R.S. § 41-1075(A).

Response. The Department has deleted this definition for the reasons given in the response to Comment 3.

Comment 31 [82]. R18-1-501(30). [Was R18-1-501(39).] Change the 1st sentence of this definition as follows:

“Time-frame extension” means the entire period measured in days, after the presumptive overall time-frame would otherwise expire and during which an application is not subject to sanctions.

Response. No change to the proposed rule for the same reasons given in the response to Comment 5 above. The modifier “presumptive” is not appropriate in this context because the overall time-frame may well expire at a time other than that of the presumptive overall time-frame.

Comment 32. R18-1-501(30). [Was R18-1-501(39).] The definition of “time-frame extension” is confusing. It suggests that the application is subject to sanctions. The proper subject of sanctions is the Department, not the application. Additionally, the phrase “pursuant to an agreement between the applicant and the Department” should be added at the end of the 1st sentence to clarify that time-frame extensions must be mutually agreed upon.

Response. No change to the proposed rule. The Department understands the licensing time-frames statute to mean that sanctions result from the Department’s handling of applications subject to today’s rule. The Department believes that the rule makes this understanding clear.

Comment 33. R18-1-501(40). [Now deleted.] Change this definition as follows:

“Time-frame extension clock” means the device used in this Article to account for the passage or suspension of time counting ~~and assignment of certain days~~ within a licensing time-frame extension under A.R.S. § 41-1075(B).

Response. The Department has deleted this definition for the reasons given in the response to Comment 3.

Comment 34. R18-1-501(31). [Was R18-1-501(41).] The definition of “withdrawn application” references section R18-1-517(B). That section does not mention anything about withdrawing an application. Perhaps the Department intended to cite R18-1-517(C)?

Response. Yes. The citation is corrected.

Comment 35. R18-1-502(A). Section 502(A) sets forth the applicability of the Licensing Time-frame Rules. According to the preamble, “Licenses that result from notification requirements but that do not require the Department to

Arizona Administrative Register
Notices of Final Rulemaking

issue a written license in response are excluded.” Why? The statutory authority for the licensing time-frames does not provide for such a limitation. Accordingly, Article 7.1 states that this article does not apply to 3 categories of licenses. Those issued: 1) pursuant to tribal state gaming compacts; 2) within 7 days after receipt of initial application; and, 3) by a lottery method. A.R.S. § 41-1073(D). Nowhere does the statute allow for the rule to expand these categories. Therefore, the only licenses that can be excluded from the rules are those set forth in the statute, not the 12 categories established by agency fiat in the rule. If the Department feels there is a need to expand § 41-1073(D), it should look to a legislative change. In the alternative, if the Department chooses to ignore the limitation in the statute, then Tables 18 and 20 should be exempt from this rule making. A.R.S. § 49-1091 already sets forth the time-frames for these actions and these licenses are not subject to fees.

Response. No change to the proposed rule. The Department disagrees with the above analysis. The statute clearly states that it apply only to licenses the Department “issues.” This makes sense because if the Department does not “issue” the license, there can be no application review time during which an applicant is waiting to hear of the Department’s decision, no licensing decision, and no application submitted to the Department. See additional discussion on these points at §§ 6(E)(1) and 6(G)(2) above. See Comments 134 and 135 below concerning Tables 18 and 20.

Comment 36. R18-1-502(A)(1): This exemption applies a circular logic that has no conclusion. R18-1-502 asserts that all licenses not requiring an application are exempt from the rules. The definition of an “application” necessarily requires under R18-1-501(7) that the applicant request the license in writing “under R18-1-502.”

Response. No change to the proposed rule. Without an application (written request to obtain a license), there can be no way for the Department to know when someone has asked the Department to consider granting a license or what kind of license might be desired. By its terms, the licensing time-frames statute governs only written licenses issued by the Department. The Department administers no licenses that it issues in writing subject to the licensing time-frames statute that require only oral applications.

Comment 37. R18-1-502(A)(2). This provision would appear to cover general permits that are triggered simply by notice to ADEQ. Some general permits established by statute or rule may provide (or may in the future provide) ADEQ with an opportunity to request additional information from an applicant to verify compliance with the terms of the permit. Are all of these examples identified in the tables accompanying the proposed rule? If not, are time-frames applicable to ADEQ’s review of information submitted by the applicant in this situation (and if so, how)?

Response. No change to the proposed rule. Yes, all such individual licenses issued by the Department and requiring an application are included in today’s rule. One example is the class I general coverage ATO permit shown as category 25 on Table 1. See additional discussion on this point at §§ 6(E)(1) and 6(G)(2) above.

Comment 38. R18-1-502(A)(3). The statute requiring that the Department establish licensing time-frames does not distinguish between “a license issued at the Department’s initiative,” and other licenses. The statute requires that an agency that issues licenses shall have in place overall time-frames for granting or denying “each type of license that it issues.”

Response. No change to the proposed rule. One example of a license the Department issues on its on initiative is the class I reopening described at § 6(H)(1)(b)(4) above. This license is administered as part of the state’s clean air program and requires no application or submittals from the prospective licensee. Without an application or other submittals from an applicant, there can be nothing for time-frames to measure. Today’s rule, however, does govern all cases where a prospective licensee makes a written request (application) to the Department to grant a license. See Comment 35 above for more discussion on this point.

Comment 39. R18-1-502(A)(4). Why is it necessary to include an exemption stating that time-frames do not apply to a license that has been granted by default because the Department did not act within a time-frame identified in statute or rule? Does this exemption mean that no refund/penalties/fee excusal applies in such a case (since the license is exempt from the time-frames article)? Or is this simply a way of restating the concept articulated in R18-1-502(C)?

Response. No change to the proposed rule. If the Department can never be late in making a licensing decision, there can never be a refund, fee excusal, or penalty. If the Department can never be late, no applicant can ever be kept waiting past a date certain due to a delay in the Department reaching a licensing decision. This exclusion applies primarily to waste pollution plan approvals that are deemed “acceptable” by statute should the Department fail to act within 90 calendar days of application receipt. This is an example of the statute giving an applicant a right to an issued license subject only to the Department finding fault with an application within a fixed time period. See additional discussion on these points at §§ 6(E)(1) and 6(G)(2) above.

Comment 40. R18-1-502(A)(5). It is unclear where the Department gets the authority to limit its broad statutory responsibility to provide time-frames for each type of license that it issues. Under this Section, the Department could

Arizona Administrative Register
Notices of Final Rulemaking

exempt categories of licenses from the time-frame rules merely by failing to place them within the accompanying table. This is not what the legislature intended.

Response. No change to the proposed rule. The Department understands its rulemaking obligations under the licensing time-frames statute, Article 7.1, as 2-fold. First, it must identify all licenses it issues that are governed by Article 7.1. Second, it must establish time-frames in rule. This clearly means that all governed categories are required to be in rule and that it will be the rule that determines how the time-frames operate. This also means that Article 7.1 is not self-implementing.

The exclusion stated above follows directly from the inevitable meaning of Article 7.1 in that (1) time-frames in statutes other than Article 7.1 are not directly determinative of the operation of Article 7.1 time-frames, imposition of sanctions, and reporting requirements and (2) only categories identified in rule shall be governed by the operation of Article 7.1. Members of the public may have varying opinions as to what should or should not be classified as a license subject to Article 7.1. The definition of "license" in the administrative procedure act can be difficult to understand in certain circumstances. It is the duty of the Department, however, to speak on this matter with clarity. Today's rule expresses the Department's determination of exactly which categories meet the requirements of Article 7.1. From time to time, the Department must modify this determination as new programs (and licenses) are created by the Legislature and existing programs revise existing licenses. The Department expects to conduct housekeeping amendatory rule makings at least annually to keep today's rule up to date. See additional discussion on these points at §§ 6(E)(1) and 6(G)(2) above.

Comment 41. R18-1-502(A)(8). Why are license applications for which the applicant is not the prospective licensee exempt from time-frames? (Does it have anything to do with the fact that the refund might not go to the licensee?) If a consultant prepares an application on behalf of a relatively small and unsophisticated licensee, would this exemption kick-in and mean that time-frames do not apply? Does the Department feel it is necessary to exempt these licenses because the applicant is not the proper party? If the party applying for a license is not the proper party, that license should be rejected under the appropriate licensing rule. That application should not be addressed by this rules since it would not be a proper license application.

Response. No change to the proposed rule. This comment touches on an area about which the Department still has uncertainty. Article 7.1 applies only to "licenses." This is a defined term in statute and requires that there be someone (the prospective licensee) whose rights, duties, or privileges under the law would change if the Department grants the license. There are instances, especially in the remediation license areas, where an applicant is not a prospective licensee, in that the applicant is not likely to experience a change to its rights, duties, or privileges under the result whether the Department approves the application or not. One example is a prospective purchaser of land that may require remediation under the law and who seeks Department approval of a remediation plan or other matters. While the outcome of Department approval may well influence whether the applicant proceeds and purchases the land, the applicant (as merely a prospective purchaser) gains no change in status under the law at the time the Department might approve the application. If such applications are subject to Article 7.1 and incur review fees, who would be entitled to a refund? Not the applicant in this case because the approval does not represent a "license" to the applicant. Other statutes require the Department to give state monies only to persons who have a legal right to receive them. Here, the only way a person may obtain a legal right to receive a refund under Article 7.1 is to have applied for a "license" with the meaning as described above.

There may well be 3rd-party licensees who do benefit passively from a Department approval. This may be an easily identified person or there may be a dispute or potential dispute as to the identity of all persons who may have some duty to remediate under the law for any particular property. The Department sees no way it can have the ability to enter into tracing and responsible party investigations only due to the need to give money to someone. It is also true that virtually all approvals granted by the Department may have 3rd-party passive beneficiaries, perhaps many for each license. It is for all of these reasons that the Department has determined that Article 7.1 limits the scope of refunds only to applicants who gain a legal right to the refund because they requested a "license" and not to passive 3rd-party prospective licensees.

This situation can also occur in the underground storage tank (UST) program and the superfund programs but because no application review fees are charged, there can be no refunds. This means that the restriction on the payment of state monies described above do not apply. For this reason, no exclusion on this basis is being made in today's rule and the Department expects to apply this rule to all applications in the categories identified on those program tables without regard to whether the applicant is, in fact, a prospective licensee. The voluntary program remediation licenses, however, do incur review fees. The Department has deleted those categories of table 20 that incur fees from today's rule due to the difficulties described above and because of the high likelihood that applicants in that program may not, in fact, be prospective licensees. State law, however, provides the Department authority to review applications in these programs without regard to whether the applicant is, in fact, the actual prospective licensee. This means

Arizona Administrative Register
Notices of Final Rulemaking

that the Department cannot refuse to process such applications in the manner suggested by the commenter. See additional discussion on these points at §§ 6(G)(2), 6(H)(20), and § 10 (Table 20) above.

Comment 42. R18-1-502(B). This section asserts that an application submitted under these rules will not be subject to any future rule making. This provision is beyond the authority of the Department. To presently limit the application of future rules to an application is not only legally counterintuitive, but it prevents the applicant from having an ability to comment on the application of those future rules. Applicability sections should take into account presently existing applications. It is impossible, however, to predict the form and substance of a future rule. It is suggested that the Department delete the part of this section dealing with future rule makings and wait until those rule makings actually take place to determine if previously submitted applications are excluded.

Response. The last 2 sentences are deleted. The Department agrees that state law prohibits statutes and rules from having retroactive effect unless expressly authorized in statute. The licensing time-frames statute does not expressly authorize retroactive effect. This means that the Department has no authority to impose retroactivity. Further, the nature of the statute is such that it requires both applicants and the Department to perform many complex tasks throughout the pendency of an application. Should the rule change after an application is already in process, a retroactive effect of a change would require recalculation of all pending applications in process and may result in automatic expiration at the moment the new rule goes into effect, especially if the new rule reduces time-frames in certain categories. This would cause havoc for applicants, something not intended by the statute. It would also make it extremely difficult to make any adjustments to the rule once effective because any change would effect all applications at once. Recognizing that rule amendments will not effect applications in process gives wide latitude to changes possible in a rule revision including dramatic reductions in time-frames and other changes. R18-1-513, “opt-in licensing time-frame agreements,” can provide a means for applicants to make a pending application subject to a rule revision. In addition, any amendatory rulemaking is able to make specific changes to this restriction in rule in order to make a smooth transitions from 1 rule version to another. The Department, however, makes this requested change by deleting the last 2 sentences.

Comment 43. R18-1-502(B). Change the 1st sentence of this subsection as follows:

If an application ~~is becomes~~ subject to this Article, it remains subject to the terms of the original license category in which it was classified unless the application lapses from this Article, is withdrawn, is altered by a licensing time-frames agreement, or is changed under R18-1-516.

Response. No change to the proposed rule. This is a close call but “becomes” has a more definite meaning than the indefinite “is” and, therefore, adds more clarity to the exact intent of this important provision.

Comment 44. R18-11-502(C). A.R.S. § 41-1073(B) states that if statutory licensing time-frames already exist for a particular type of license but do not establish separate time-frames for administrative review and substantive review, the time-frames rule should establish such periods that together shall not exceed the statutory time-frame. ADEQ appears to be extending this provision to address time-frames already existing in rule as well as statute. However, ADEQ states that for purposes of determining when refunds are due, separate time-frames (as established in this rule) will apply. This is inconsistent with the statute, which provides that the administrative completeness and substantive review time-frames together should not exceed the existing statutory time-frame. An example (albeit in a rule context) is the APP program, which establishes a 30-day period for administrative review and an additional 90 days for substantive review. See A.A.C. R18-9-107(D)-(E). Pursuant to the proposed rule, these time-frames would still apply in lieu of those in the time-frames tables, but the tables would govern when and if refunds were due. This makes a mockery of existing time-frames established in statute or rule and circumvent the intent of the statute.

Response. No change to the proposed rule. The Department disagrees with this analysis. The APP rule example cited requires the Department to issue a proposed licensing decision at the end of 90 days. The Department does not gain authority under the remainder of the APP rule to make a final licensing decision on the application until after that proposed decision has been published, subjected to public comment, and if a request for a public hearing is made, not until after the hearing is held. Article 7.1 clearly requires that public hearings required by law must occur during the substantive review time-frame. This means that the time-frame must be long enough to contain all required activities and not just the issuance of the proposed decision. See additional discussion on these points at §§ 6(E)(3), 6(G)(2), 6(H)(10) above. Also, note that there are no application review times in statute governing APP. All review times are in rule and, therefore, not subject to the limitation cited in the comment. The Department, however, did use the times in rule as the maximum for all the standard APP categories and reduced those times in certain instances. See more discussion on this point at § 6(H)(10) above.

Comment 45. R18-1-503. Add “administrative deficiencies” to the section title.

Arizona Administrative Register
Notices of Final Rulemaking

Response. No change to the proposed rule. The Department believes that the provisions concerning administrative deficiencies are announced adequately by the use of the term “administrative completeness” in the section title.

Comment 46. R18-1-503(A). This section contradicts the statutory definition of administrative completeness review time-frame.

Response. No change to the proposed rule. See Comment 4 above for discussion on this matter.

Comment 47. R18-1-503(A). Change this subsection as follows:

~~For each application, the~~The administrative completeness review time-frame clock ~~for an application~~ begins on the day ~~the~~ of Department ~~receives receipt~~ of the 1st component submittal in support of the application that contains all ~~of~~ the following:

1. ~~Name, address, and telephone number~~ Identification of the applicant.
...
4. ~~Name~~ Identification of the license category in which the application shall be 1st processed. If companion categories are shown on a license table for this license, the application shall be 1st processed in the companion category that is determined as follows:
 - a. If “standard” and “complex” categories are shown, in the “standard” category.
 - b. If “without a public hearing” and “with a public hearing” are shown, in the “without a public hearing” category.
 - c. If “without a public meeting” and “with a public meeting” are shown, in the “without a public hearing” category.

Response. No change to the proposed rule. In the stem, the Department believes the change to “[f]or each application” and the addition of “of” are unnecessary. The change from “Department receipt,” a defined term, to “the Department receives” may be construed as having a different meaning. The Department believes the changes suggested to subsections (1) and (4) are too restrictive on the part of applicants and are, therefore, unnecessary.

Comment 48. R18-1-503(B). Change the stem of this subsection in the same manner as R18-1-502(A) described in Comment 47.

Response. No change to the proposed rule for the same reason given in the response to Comment 47.

Comment 49. R18-1-503(C). [Now deleted.] This section provides the Department with the authority to require the applicant to respond to 1 or more notices of administrative deficiencies during the administrative completeness review time-frame. This section is beyond the authority of the statute. The statute affords the Department the opportunity to issue “a written notice” including “a comprehensive list of the specific deficiencies in the written notice.” Section 503(C) does not adhere to either of these 2 requirements. The proposed rule expressly states that the Department may request 1 or more. The proposed rule also fails to limit that request to “a comprehensive list.”

Response. The Department has deleted this Section although the Department disagrees with this analysis. The rule makes clear that no grant of a license application will be declared procedurally flawed because the Department informed an applicant more than once that an application was not administratively complete. Article 7.1 does not limit Department requests to “only one” nor is this good public policy in that it would prohibit the Department from helping an applicant achieve an approvable application. See additional discussion on these points at §§ 6(E)(3) and 6(E)(4) above. The Department, however, has deleted this Section.

Comment 50. R18-1-503(D). [Now deleted.] The rule proposes that an application will lapse if the requested information is not returned to the Department by the “lapse date identified in the notice.” This section should cross-reference Section 517.

Response. The Department has deleted this subsection as described in the response to Comment 19.

Comment 51. R18-1-503(D). [Now deleted.] All provisions for lapse should be deleted from the rule.

Response. The Department has deleted this subsection as described in the response to Comment 19.

Comment 52. R18-1-503(D). [Now deleted.] Concerning the calculation of lapse dates, how is the lapse date to be determined? This determination needs criteria in rule. There is nothing to indicate that it might be longer than the “2 months” identified in this provision.

Response. The Department has deleted this subsection as described in the response to Comment 19.

Comment 53. R18-1-503(C). [Was R18-1-503(E).] When would a notice of administrative deficiencies not suspend the time-frame clock?

Response. When it does not state that it is suspending the clock. This means that no grant of an application can be found to be procedurally flawed and invalidated simply because the Department informed an applicant informally

Arizona Administrative Register
Notices of Final Rulemaking

more than once that the application was incomplete. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above.

Comment 54. R18-1-503(C). [Was R18-1-503(E).] Change this subsection as follows:

If a notice of administrative deficiencies states that the Department is suspending the time-frame clocks until the applicant supplies the missing information identified on a comprehensive list of specific deficiencies included with the notice, the administrative completeness review time-frame clock is suspended as of ~~suspends on~~ the day of notification.

Response. No change to the proposed rule. The Department disagrees that a change from active to passive voice increases the conciseness or clarity of this subsection.

Comment 55. R18-1-503(D). [Was R18-1-503(F).] The failure to resume the time-frame when assessing whether the application is complete, is a violation of the statutory intent. A.R.S. §41-1072(1) requires that the administrative review time-frame include such review. Anytime the Department is reviewing an application to determine whether it contains all the required components, the administrative completeness time-frame should be running. Additionally, what “lapse date” is the Department referring to? The 1st notice? The 2nd notice?

Response. The Department disagrees with this analysis. The clock does resume automatically under the rule but the Department has a short time within which to cancel the resumption for the benefit of the applicant so that the applicant can correct the response. For all licenses shown in rule, failure to submit a complete and approvable application must mean denial. The rule allows the Department to assist an applicant to correct a response so that the time does not run out later in the process while the applicant attempts to make corrections at the last minute. This subsection is revised to clarify that it is a subsection (E) notice. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above.

Comment 56. R18-1-503(E). [Was R18-1-503(G).] Same questions concerning lapse dates as expressed in Comment 52.

Response. The Department changed this provision for the reasons given in the response to Comment 19.

Comment 57. R18-1-503(F)(1). [Was R18-1-503(H)(1).] This provision allows ADEQ to request additional information (an apparently unlimited number of times) from an applicant to make an application administratively complete even after the application is deemed by statute to be complete. This is flatly inconsistent with the statute, which provides that application is deemed complete once the time clock expires. Article 7.1 states that “[i]f an agency does not issue a written notice of administrative completeness or deficiencies within the administrative completeness review time-frame, the application is deemed administratively complete.” A.R.S. §41-1074(C). ADEQ presumes under 503(H)(1), that this means they may continue to request administrative materials. This is improper. The statute deems the application administratively complete if ADEQ fails to meet the deadline. The statute provides for a limitation in ADEQ’s ability to request administrative information. Section 503(H)(1) takes away that statutory limitation.

Response. No change to the proposed rule. The Department disagrees with this analysis. There is no such statutory limitation and the creation of such a limitation is sure to be highly disadvantageous to applicants. Shortening review times and limiting the Department’s ability to inform applicants of application infirmities has little impact on the Department but can have very large negative impacts on applicants who did not submit a complete approvable application on day one. Licensing decisions made at a time when an application is incomplete must be one of denial under Arizona law. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above as well as the “introduction to the comments” paragraph immediately preceding Comment 1.

Comment 58. R18-1-503(G)(2). [Was R18-1-503(I)(2).] Change this subsection as follows:

If presumptive administrative completeness occurs:

...

2.The Department does not waive the requirement for the applicant to submit all application components necessary to allow the Department to grant or deny the license, and

...

Response. No change to the proposed rule. Statute prohibits the Department from issuing by default any of the licenses identified on the license tables. This means that the burden remains on the applicant to prove entitlement to a grant of the license. Adding the phrase “or deny” suggests the opposite; that the Department must receive certain information from an applicant before it has the authority to deny. This is not true and will probably serve to increase ambiguity as to what is the proper meaning of this subsection.

Arizona Administrative Register
Notices of Final Rulemaking

Comment 59. R18-1-503(H). [Was R18-1-503(J).] Delete this subsection concerning suspension and resumptions described in other sections because the Department has no authority to operate such suspensions.

Response. The Department has deleted references to all section except for R18-1-518. In general, the Department disagrees with this analysis and explains the specifics of the referenced sections in the responses to other comments made for each specific section.

Comment 60. R18-1-504(A). Change this subsection as follows:

The substantive review time-frame clock for an application begins on 1 of the following days:

1.If the Department notifies the applicant that the application is administratively complete before the expiration of the administrative completeness review time-frame clock, the time-frame begins on the~~1~~ day after notification.

2.If the Department does not notify the applicant that the application is administratively complete before the expiration of the administrative completeness review time-frame clock, the time-frame begins on the~~1~~ day after expiration.

Response. No change to the proposed rule. This change alters the meaning of the stem and adds unnecessary words to the definition.

Comment 61. R18-1-504(C). [Now deleted.] What is the difference between a “request for additional information” and a “comprehensive request for additional information”? These should be defined.

Response. The Department has deleted this Section although the definitions for these 2 terms have been added to today's rule under R18-1-501. There is little difference between the 2 terms. The reference to both in the rule is to insure that all possible “requests” are included, no matter how they may be termed. The Department determined during the informal public workshops on this rulemaking that many of the public believed Article 7.1 restricted the Department from making more than 1 request under any circumstances. This is an important misunderstanding. This interpretation could only be appropriate if the Department issued these licenses by default, something, however, that is prohibited by statute. The Department's intent was that today's rule would clarify that the Article makes no such restriction and that the Department will not impose such a restriction solely as a result of Article 7.1 requirements. Such a restriction can only cause applicants great harm. In addition, subsection (C) [as proposed] would have provided applicants with additional protection from collateral attack by 3rd parties on the validity of an issued license if a 3rd party asserts the Department's issuance of the license was invalid and without legal authority because the Department made more than “one” request for information.

Comment 62. R18-1-504(C). [Was R18-1-504(C)-(E).] This section appears to indicate that the Department feels it has the authority to submit additional requests for information under the substantive review time-frame. The Department appears to be asserting that it can do this so long as it does not stop the time-frames. How does the Department justify this section in light of the clear, unambiguous statutory requirement that states “[d]uring the substantive review time-frame, an agency may make 1 comprehensive written request for additional information.” A.R.S. §41-1075(A). This language is perfectly understandable. Nowhere does it even intimate that there is room for anything more than 1 unilateral request.

Response. No change to the proposed rule except that the Department has deleted subsection (C) [as proposed]. The Department's response is the same as the previous comment. This comment demonstrates how easy it can be to assume that any “additional request for information” is the same as the 1 “comprehensive request for additional information” that is allowed to suspend the time-frames under A.R.S. § 41-1075(A). It was exactly to avoid such confusion that the Department expected to provide both terms in today's rule along with the provision that only 1 comprehensive request for additional information may suspend the time-frames. This, however, the Department has changed in response to this comment.

Comment 63. R18-1-504(D) as proposed. Under A.R.S. §41-1075 “a request for additional information” can only be the result of a mutual agreement. This section of the rule does not state that ADEQ will seek an agreement.

Response. This subsection is deleted because its only purpose was to control the operation of lapse, a provision also deleted from today's rule. As for other points raised by the commenter, the “mutual agreement” cited in the comment applies only if the applicant wishes the time-frames to suspend pending submission of the information. R18-1-504(D) as proposed, however, did not suspend time-frames. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above.

Comment 64. R18-1-504(D) as proposed. Same questions concerning lapse dates as expressed in Comment 52.

Response. The Department has deleted this subsection for the reasons given in the response to Comment 19.

Arizona Administrative Register
Notices of Final Rulemaking

Comment 65. R18-1-504(c). [Was R18-1-504(E).] Change the 1st sentence of this subsection as follows:

If a comprehensive request for additional information states that the Department is suspending the time-frame clock until the applicant supplies the missing information identified in the comprehensive request for additional information, the substantive review time-frame clock ~~is suspended~~~~suspends~~ on the day of Department notification.

Response. No change to the proposed rule. The Department disagrees that a change from active to passive voice increases the conciseness or clarity of this subsection.

Comment 66. R18-1-504(D). [Was R18-1-504(F).] This provision provides that the time clock continues to be suspended if an applicant does not provide all the information requested by ADEQ. In very complex application procedures (such as some APPs), ADEQ often makes extensive and unjustified information requests. This provision allows ADEQ to essentially extend the time clock for as long as it desires by simply requesting voluminous and unjustified information. As a policy matter, there ought to be some sort of interim appeal process in this sort of situation. Additionally, this section does not allow for an agreement between the Department and the applicant that certain information requested in the comprehensive request need not be submitted. This section ties the regulator's hands.

Response. No change in the proposed rule. The Department's response is the same as Comment 7.

Comment 67. R18-1-504(D). [Was R18-1-504(F).] Same questions concerning lapse dates as expressed in Comment 52.

Response. The Department has deleted lapse provisions from today's rule for the reasons given in the response to Comment 19.

Comment 68. R18-1-504(E). [Was R18-1-504(G).] Delete this subsection concerning suspension and resumptions described in other sections because the Department has no authority to operate such suspensions.

Response. Except for R18-1-518, references to all other sections have been deleted. In general, however, the Department disagrees with this analysis and explains the specifics of the referenced sections in the responses to other comments made for each specific section.

Comment 69. R18-1-505(B). Change this subsection as follows:

The overall time-frame clock ~~is stopped and started~~~~suspends and resumes~~ in concert with the administrative completeness, substantive review, and extension time-frame clocks.

Response. No change to the proposed rule. The suggested change increases ambiguity and decreases clarity. "Start" in this rule is reserved to mean only the initial start of a time-frame under R18-1-503(A); "end" is reserved to mean only the final end of a time-frame under R18-1-507(A). In addition, the Department disagrees that a change from active to passive voice increases the conciseness or clarity of this subsection.

Comment 70. R18-1-505(C)(2)(b). Change this subsection as follows:

The actual number of days for the substantive review time-frame if the Department notifies the applicant of a licensing decision under R18-1-504(B)(1) before the expiration of the substantive review time-frame, or

Response. No change to the proposed rule. The Department believes the addition of these words unnecessary with the context of the entire subsection. Inclusion of unnecessary words may lead to ambiguity as it suggests a narrower range of actions than identified by the original language.

Comment 71. R18-1-505(C)(2)(c). This provision states that the duration of the overall time-frame clock will include the actual number of days for the substantive review time-frame if the applicant causes the time-frame clock to end by allowing the application to lapse or withdrawing the application (or entering into a changed licensing time-frame agreement). Why is this provision necessary? If the application lapses or is withdrawn, why is there a need to determine the overall time-frame? Is this provision intended to determine if a penalty/refund is due in a situation where ADEQ fails to act in a timely fashion on an application even though the applicant later withdraws or allows that application to lapse?

Response. No change to the proposed rule. The purpose of this section is to allow everyone to determine with clarity exactly when the time-frames end on an application. As such, the section is necessary. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above.

Comment 72. R18-1-506(A). Change "1" to "on the."

Arizona Administrative Register
Notices of Final Rulemaking

Response. No change to the proposed rule. The proposed language follows a structure parallel to that used throughout the rule. The suggested language changes this without increasing clarity or conciseness.

Comment 73. R18-1-506(C). This section implies that an extension of the time-frames establishes another chance for the Department to request information. All information requested by the Department during the substantive review time-frame should be done in strict accordance with A.R.S. § 41-1075. This section cannot create a right to a 2nd “comprehensive written request.”

Response. No change to the proposed rule except that the Department has deleted “and 1 or more requests for additional information.” This subsection does not create additional rights or chances but does clarify that if a comprehensive request suspending the time-frames was not made prior to the beginning of the time-frame extension, the applicant does not lose the right to be afforded 1 if necessary. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above.

Comment 74. R18-1-506(E). Delete this subsection concerning suspension and resumptions described in other sections because the Department has no authority to operate such suspensions.

Response. Except for R18-1-518, references to all other sections have been deleted. In general, however, the Department disagrees with this analysis and explains the specifics of the referenced sections in the responses to other comments made for each specific section.

Comment 75. R18-1-507(A)(2). This section cannot grant the Department the authority to issue conditional grants of licenses. Such action must be provided for in the individual licensing statute for that license. If it is not provided for in the licensing statute, the time-frame rules cannot create it.

Response. No change to the proposed rule. The Department agrees. This rule does not confer any authority to grant or deny any license conditional or otherwise. Such authority, if it exists, does so under other statutes and rules. Today's rule only operates to clarify the impact on the operation of the time-frames should such authority be exercised. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above.

Comment 76. R18-1-507(B). This section should also include a citation to the authority of the Department to issue a conditional license.

Response. No change to the proposed rule. The citations are referenced indirectly in the license tables which identify licenses with their statutory citations. These citations can then be used to trace matters other than just required application components. Most conditional approvals occur in certain of the Model E and F application review types as described under § 6(H) above.

Comment 77. R18-1-507(B). Change this subsection as follows:

The Department ~~shall include the following information in a notice notification~~ of a conditional grant of a license under subsection (A) of this Section shall include both the following:

. . .

Response. No change to the proposed rule. “Department notification” is a defined term. The suggested change would not clearly incorporate the defined term. In addition, the Department believes the added words do not increase the clarity or conciseness of the proposed rule.

Comment 78. R18-1-507(C). The stem of this section is very confusing. It would be more readable if it was set out in a list fashion. This section is also unreasonably broad. This section makes no provision for any potential change in the information needed by the Department during the administrative completeness review. If it is mutually determined by ADEQ and the applicant that the information requested by the Department does not exist or is not necessary, the fact that the request is “incomplete” should not put the application in risk of being denied under this section. Lastly, the section mistakenly presumes that the accuracy of an application is something judged during the administrative completeness review time-frame. The administrative completeness review time-frame is when the Department determines that the application “contains all components required by statute or rule.” The administrative completeness review is not a chance to judge the accuracy of that information.

Response. This subsection is revised. The Department's response is the same as Comment 75. Also note that some license categories contain no substantive review time-frames and that this is anticipated by Article 7.1. How and when application components are judged is governed by program statutes and rules, not today's rule.

Comment 79. R18-1-507(E). Change this subsection to delete the word “so.”

Response. The Department has made this change and added additional words to retain the meaning of exactly what is to be notified.

Arizona Administrative Register
Notices of Final Rulemaking

Comment 80. R18-1-507(F). Why is this provision necessary (“the ending of time-frame clocks under this Section also shall end all time-frames”)?

Response. This subsection is deleted for the reasons stated in Comment 3.

Comment 81. R18-1-508(B)(2). Why must an applicant always waive its rights to the time-frames established in the tables accompanying this rule when it enters into a pre-application agreement? Might not the agreement affect (extend) only 1 segment of the time-frame (for example, substantive review) and not the other (for example, administrative review)? Might not the pre-application agreement address things other than extending or shrinking time-frames (for example, specifying application components and permitting strategy)? This subsection ought to be preceded by language such as “if appropriate.”

Response. No change to the proposed rule. All agreements are by mutual agreement and for the benefit of applicants. If an agreement only changes 1 of the time-frames, it can so state by repeating that the other time-frame remains unchanged. These agreements only govern matters properly under the purview of Article 7.1. Other pre-application matters outside that scope must be handled in other pre-application agreements made under other authority than Article 7.1. As for the waiver, any rights that may exist under Article 7.1 exist within a bundle of both rights and duties. It is the adjustment of the entire bundle of rights and duties that the agreement addresses. The requirement for a specific waiver makes clear that the determination of that bundle is made within the 4 corners of the agreement. This clarity is essential to ensure that the Department and applicants are able to make accurate prospective determinations of how sanctions and reporting requirements under Article 7.1 are to be calculated. One informal comment made to the Department was that an applicant has no “rights” under Article 7.1; that there are only duties placed upon the Department. If this view is true, then a waiver is meaningless and no harm is done. Comments received in the public workshops, however, show that a significant segment of the public does believe that Article 7.1 does grant applicants a number of important and valuable rights including the right to a refund. The Department's response is to clarify in today's rule only 1 element of this overall debate. That element pertains only to the identification of days on the tables. Today's rule requires pre-application agreements to identify applicable time-frames in lieu of those shown on the tables. These times can, of course, be the same as shown, if both parties agree to those times.

Comment 82. R18-1-508(B)(5). What is the statutory basis for requiring a fee adjustment as part of a time-frame agreement? Fees are authorized by other specific statutes or rules, not by the statutes authorizing this rule. Furthermore, what criteria is ADEQ contemplating using to make this determination, assuming it is appropriate to adjust fees a part of a time-frame agreement?

Response. No change to the proposed rule. Today's rule applies to all categories shown on the license tables. These tables span all licensing programs administered by the Department. Some applications in some programs incur hourly review fees; some do not. Today's rule merely clarifies that the agreement may determine how such time will be adjusted if authority exists under the specific program and if the Department and the applicant agree. Today's rule does not create such authority; it only responds to such authority if it exists.

Comment 83. R18-1-508(B)(3). Change this subsection as follows:

Identification of application components required in support of the application. See R18-1-513.

Response. No change to the proposed rule. “Application component” is already a defined term. Inclusion of this additional language here might be construed as suggesting a meaning at variance with the term as defined at R18-1-501(7). Also, inclusion of a reference to R18-1-513 (“licensing time-frame opt-in agreements”) is probably not helpful.

Comment 84. R18-1-508(C). Why does the pre-application agreement have to be longer than the original time-frames? It would seem that this element should be negotiated. Having it expressly stated in the rule makes it difficult to change for both the Department and the regulated community. There is no reason for such rigidity.

Response. No change to the proposed rule. The point of a pre-application agreement is to provide a means for the Department to expend resources or delay review of certain portions of an application in excess of what would otherwise be required. Today's rule does not require that time-frames be longer; only that time-frames cannot be shorter. The Department believes that agreeing to shorter time-frames on a case-by-case basis while at the same time agreeing to expend additional application review resources for the benefit of the applicant can only tend to shift review resources away from other applicants in the same program. If the desire of the commenter is to reduce time-frames, the Department believes the fairest method is to reduce time-frames for all applicants by revising the rule as resources and experience permits. Again, the point of a pre-application agreement is only to allow an applicant to avoid a summary denial because not all required application components are submitted at 1 time. The Department believes that segmenting the review of components is sure to require more, not less, coordination by the Department. On the other

Arizona Administrative Register
Notices of Final Rulemaking

hand, the Department believes that there are important public policy reasons to do exactly that for the benefit of applicants in certain programs. It was only for this reason that today's rule contains this section.

Comment 85. R18-1-508(C)(3). The 2nd sentence is confusing. It is unclear who has the 15-day review period. Additionally, the last sentence is troubling.

Response. No change to the proposed rule. The 15-day provision and the last sentence follow the provisions of R18-1-504(E). As in R18-1-504(E), review is conducted by the Department. The last sentence is deleted for the reasons given in Comment 19.

Comment 86. R18-1-508(D)(2) and (3). These sections contain some vague language that makes the rule difficult to understand. Section 508(D)(2) addresses expending resources to the "significant detriment" of other applicants. It is unclear as to what this means. 508(D)(3) uses the term "significant increase or change" regarding potential effects. It is unclear whether this means detrimental effects or beneficial effects, or both.

Response. The Department has added the qualifier "detrimental" to the text although the Department believes the word to be essentially meaningless in context in that what may be considered detrimental in 1 context can usually be found to be beneficial in another. In response to the remainder of the comment, the Department believes that focusing limited resources of a program to benefit just 1 applicant may, in certain cases, be highly disadvantageous to fellow applicants if this means delays for them. This means that benefits and detriments can be 2 results of the same actions. The Department has a duty to prevent unfair apportionment of resources between applicants. Here, "significant" has its plain meaning of "having or likely to have an effect" as defined in *Webster's Third New International Dictionary*. "Likely," of course, means "more probably than not" or at least 51%.

Comment 87. R18-1-508(D)(3). Simplify or break up the 2nd sentence into several sentences.

Response. No change to the proposed rule. This sentence reads: "The Department shall not enter into an agreement if the Department determines that the terms of the agreement are likely to cause a significant increase or change in the nature of the potential effects of the facility or activity to be governed by the license on public health and safety or the environment."

The Department has examined several alternatives to this sentence. In each, the meaning and intent of the provision appears to be less understandable. This is probably because the sentence contains 2 phrases that represent current usage. Breaking up these phrases will probably make the resulting requirements more difficult to understand, especially as they relate to each other. These 2 phrases are:

"[A] significant increase or change in the nature of the potential effects of the"

"[O]n public health and safety or the environment."

Comment 88. R18-1-509(A). Why is "[a] request for additional time alone [] not a valid justification for a supplemental request agreement"?

Response. No change to the proposed rule. The reason is because A.R.S. § 41-1075(A) so limits. That statute requires that such an agreement can only be used in order to obtain "additional information." In context, such information can only represent components required by statute or rule and necessary in order to grant the license. During the informal public workshops on this rulemaking, numerous participants suggested using supplemental request agreements as the way applicants can extend time-frames to accommodate public hearings or other matters concerning only time. Unfortunately, public hearings are provided by the Department and not "submitted" by applicants. This sentence was inserted in this subsection to clarify 1 important statutory limitation imposed upon the use of this type of agreement. The flexibility concerning time expressed by stakeholders had been accommodated within the several provisions concerning suspensions identified throughout the proposed rule. As explained elsewhere, most of these provisions, however, are removed in today's rule in response to objections by GRRC.

Comment 89. R18-1-509(B)(3). Change "suspend and resume" to "be suspended and resumed."

Response. No change to the proposed rule. The Department does not believe a change from active to passive voice increases the clarity or conciseness of the rule.

Comment 90. R18-1-512(A). Why have a section providing for the reactivation of licensing time-frames on a lapsed application? Wouldn't the application simply submit a new application?

Response. This section is deleted for the reasons given in the response to Comment 19.

Comment 91. R18-1-512(C)(3). Change the 2nd sentence of this subsection as follows:

Arizona Administrative Register
Notices of Final Rulemaking

The Department shall not enter into an agreement if the Department determines that the terms of the agreement are likely to cause a significant increase or change in the nature of the potential effects of the facility or activity, ~~to be~~ governed by the license, on public health and safety or the environment.

Response. This section is deleted for the reasons given in the response to Comment 19.

Comment 92. R18-1-513(B)(2). Change this subsection to add a reference to R18-1-508.

Response. No change to the proposed rule. The Department does not see how a bare reference to R18-1-508 (“licensing time-frame pre-application agreements”) increases the clarity or conciseness of this subsection.

Comment 93. R18-1-513(B)(5). This provision states that a fee adjustment may be appropriate if an applicant opts into licensing time-frame rules. In the case of the APP program, many applicants have had permits pending before ADEQ for years, and have paid the maximum amount of fees currently allowed to be collected by statute or rule. Does ADEQ intend to use this provision to extract more fees from these applicants if they choose to opt into the time-frames program? If so, this provision is very troubling.

Response. No change to the proposed rule. Pending applications are not governed by today's rule nor are fees. Fees are governed by other statutes and rules. See response to Comment 82 for further discussion on this point.

Comment 94. R18-1-513(D)(3). Change this subsection in a manner similar to that expressed in Comment 91.

Response. This Section is deleted for the reasons given in the response to Comment 19.

Comment 95. R18-1-514. Is it appropriate to include in these rules provisions stating that permits will not be issued if fees have not been paid? Is this issue not already (or more appropriately) addressed in the substantive statutes or rules governing particular permit programs and/or setting forth the fees for those programs?

Response. This section is deleted in its entirety due to objections by GRRRC that all suspensions not expressly identified within Article 7.1 be deleted. This means that the Department must change its current operation under other rules concerning how it assesses and collects application review fees imposed for water quality licenses under 18 A.A.C. 14. The office of the attorney general has assured the Department that Article 7.1 will invalidate certain operations under R18-14-105(C) and R18-14-105(E). Those rules require an applicant to settle an application review bill before the Department will issue a grant of a number of water quality licenses that will now be subject to today's rule. The Department has not yet decided on how it must proceed on this matter but it does now appear that the Department will probably be required to grant these licenses prior to final billing. Unpaid bills must then be handled in a collection, enforcement, or permit revocation action; all expensive activities. Program experience has been that, but for the withholding of permits until bill settlement, many applicants have failed to pay their fees. The present system has proved to be a fair and efficient method to handle this problem. Although the Department does expect a significant rise in unpaid fees (and increased collection costs) as a result of today's rule, the Department is unsure as to what the overall magnitude of this will be. The Department will watch this situation closely and, if necessary, may initiate rule-making for 18 A.A.C. 15 to revise the billing process.

Comment 96. R18-1-514(B). Same questions concerning lapse dates as expressed in Comment 52. In addition, suspension of time-frames pending payment of fees or receipt of applicant's signature is an option under the statute. These could be classified as application components [and, therefore, subject only to formal deficiency notices under R18-1-503 and R18-1-504].

Response. This section is deleted in its entirety.

Comment 97. R18-1-515. Provision for a suspension of time-frames due to a changed application is not an option under the statute. Use the standard provisions for requests for additional information under R18-1-504 instead.

Response. This section is deleted in its entirety. See response to Comment 95.

Comment 98. R18-1-515(B). This section states that the Department “may” notify the applicant. This section should require that the Department notify the applicant. Additionally, there should be a requirement that the written notice contain a detailed explanation of the reasons for the Department's decision to call the application “changed.”

Response. This section is deleted in its entirety.

Comment 99. R18-1-515(B)(3). Same questions concerning lapse dates as expressed in Comment 88.

Response. No change to the proposed rule for the reasons given in the response to Comment 52.

Comment 100. R18-1-516(B). [Was R18-1-516(A).] Change the 1st sentence of this subsection as follows:

If a public hearing or public meeting is requested for an application for a license that requires the Department to hold a public hearing or public meeting on a proposed licensing decision if requested, the Department shall reassign the

Arizona Administrative Register
Notices of Final Rulemaking

application from a license category not providing for a public hearing or public meeting to the companion category that does provide such a forum ~~so providing~~.

Response. No change to the proposed rule. The Department does not believe that the suggested change increases the clarity or conciseness of the proposed rule.

Comment 101. R18-1-516(A). [Was R18-1-516(B).] There should be a requirement that the Department set forth in writing the reasons for the decision to reassign the application to a different category.

Response. This subsection is revised to make this change.

Comment 102. R18-1-516(B) as proposed. Change the 1st 2 sentences of this subsection as follows:

The Department may reassign an application to a different category if an evaluation of the application components indicates that a category change is necessary, in the category in which the application is classified including a change from a standard to a companion complex category if such categories are shown on the license tables for that license type. The Department shall notify the applicant of the change in the license category, at which time the reassignment shall take effect. The Department notice shall contain the Department's reason for making the reassignment to a different license category.

Response. No change to the proposed rule. The Department does not believe the addition of the 2 commas is appropriate. See the response to Comment 74 for more on this point. The other suggested language probably decreases the clarity of the provision.

Comment 103. R18-1-516(C) as proposed. Change this subsection as follows:

Reassignment to a new license category under this Section means only that the time-frame clocks for the application expire after ~~on~~ the days shown for the new license category rather than the previous category.

Response. No change to the proposed rule. The suggested language changes the meaning of the provision.

Comment 104. R18-1-517(E) as proposed. Change this subsection as follows:

If the request is received by the Department before a lapse date, an applicant may request an extension of that lapse date. A lapse extension request shall include all of the following information:

1. ~~Name, address, and telephone number~~ Identification of the applicant.
2. ~~Application number~~ Identification of the application.
3. ~~Type~~ Identification and date of the Department notification or request giving rise to the lapse date.
4. The reason why the applicant is not able to act by ~~comply with~~ the lapse date.
5. ~~New~~ Identification of a new lapse date requested by the applicant.

...

Response. This subsection is deleted.

Comment 105. R18-1-517(F)(2) as proposed. Change this subsection in a manner similar to Comment 91.

Response. This subsection is deleted.

Comment 106. R18-1-517(F)(3) as proposed. In regards to the requirement that “[t]he applicant make[] a showing that it is acting in good faith to comply with this Article,” what does a “showing” entail?

Response. This subsection is deleted.

Comment 107. R18-1-517(H) as proposed. This section fails to take into account the necessary communication between ADEQ and the applicant regarding the acceptance of the submitted information. If the applicant feels it has responded properly to the request, it may never know that ADEQ considers the response incomplete. Giving notice is particularly vital for smaller and less sophisticated applicants who may not be intimately familiar with the intricacies of the time-frames rule.

Response. This subsection is deleted.

Comment 108. R18-1-518. Is there any case law that supports the Department's authority to suspend upon the occurrence of emergencies? If it exists, it is probably severely limited to acts of God and the like.

Response. The rule is modified to delete as a justification the lack of Department resources due to events not reasonably within the control of the Department and to limit the applicability of this section only to those applications that might be subject to refunds. The matters identified in the remainder of the rule are ones that occur outside the reach of the suspensions available under R18-1-503 and R18-1-504. A.R.S. § 41-1073(C) requires the Department to take Department “resources,” the impact “on public health and safety,” and other factors into account when setting time-

Arizona Administrative Register
Notices of Final Rulemaking

frames in rule. What happens when the Department is subjected to automatic refund of application fees resulting from circumstances beyond its control falls within these factors. Alternatives to having this provision are (1) to extend the time-frames on the license tables to accommodate the possibility of such emergencies, (2) provide separate companion categories with longer time-frames for applications that find themselves submit to such emergencies, or (3) require a summary denial for all applications that find themselves subject to an emergency that precludes the Department from making a decision to grant within the allotted time. In any case, the Department is prohibited from issuing these licenses by default.

The provision of the suspensions in this Rule for the matters listed is legal. If the Department can create companion categories to distinguish between applications that require or do not require a public hearing, it can also create companion categories that distinguish between applications that require further additional time due to an emergency that prevents the Department from acting in timely manner. Note that other statutes provide that the legal requirement to hold a public hearing is one that cannot be known until well into the substantive review time-frame. This Section, in effect, sets up the legal equivalent of companion categories for all applications that find themselves subject to such emergencies. The suspension time that would occur is narrowly tailored to respond exactly to the emergency giving rise to the suspension. The difference between requiring the same result by way of a separate section or a separate (companion) category on a license table is one only of form, not legal basis. The Department believes that the form chosen here (using a section rather than companion categories) increases the clarity and conciseness of the rule.

The Department agrees that the legal basis is quite narrow. It must occur only for matters that are true emergencies outside the control of the Department and not for matters that result due to the Department failing prospectively to identify and avert the emergency in the 1st place. In other words, only a true emergency will qualify, not mere convenience.

Comment 109. R18-1-518(A). Change “[e]mergencies and upset conditions” to “other emergencies.”:

Response. No change to the proposed rule. “Emergencies and upset conditions” is a term often used by applicants when dealing with the Department. The Department believes that the entire term should be used in today’s rule.

Comment 110. R18-1-518(C). This section is without statutory authority. There is nothing in Article 7.1 that provides for this emergency waiver provision. Should the Department feel such an element is necessary, it should seek to amend the legislation to provide for such emergency authority. If the moratorium is nevertheless deemed acceptable, it should be limited to the shortest time practicable, or the duration of the situation causing the emergency or upset condition to be declared. In addition, the declaration ought to be in writing and made public in some fashion (perhaps via publication in the Register).

Response. The rule is modified as described in Comment 108. This provision is limited to categories that incur fees and, as such, responds to other statutes that require the Department to maintain viable licensing programs for the benefit of prospective applicants. The Department agrees that the declaration should be made public but publication in the *Arizona Administrative Register* is always at least 3 weeks after submittal and, therefore, may not have much meaning. Newspaper publication also seems unlikely to have real meaning. The Department expects to explore this matter in more detail and develop a notification strategy for pending applications. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above.

Comment 111. R18-1-520. This section anticipates that the applicant has no appealable rights until this formal document is submitted. This is beyond the statutory authority granted to the Department. ADEQ cannot by rule eliminate the rights of a party under the Arizona Administrative Procedures Act to appeal what they feel is an appealable agency action.

Response. No change to the proposed rule. The Department disagrees with this analysis. Today's rule has no power to diminish any appeal rights a person may have under Arizona law. This rule does clarify the impact on time-frames should a person avail themselves of the procedures available under R18-1-205. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above.

Comment 112. R18-1-520(A)(2). This section anticipates informational requests that are beyond the statutory authority of the Department to request. The applicant should not be forced to submit a notice of intent to rely upon an application because ADEQ sees fit to expand by agency fiat, the authority to request additional information.

Response. No change to the proposed rule except that the Department has deleted “a request for additional information.” The Department's response is the same as Comments 7, 49, 62, and 111 and the “introduction to comments” immediately preceding Comment 1. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above.

Arizona Administrative Register
Notices of Final Rulemaking

Comment 113. Proposed R18-1-520(B). In regards to an applicant submitting a notice of intent to rely on the application components as submitted, why should the Department suspend the clock? If the applicant takes the risk of submitting a notice, is it not then up to the Department to move forward?

Response. The suspension is deleted.

Comment 114. Proposed R18-1-520(B) and 520(B)(1). As written, this provision allows ADEQ to suspend the clock while requesting additional information, back down once the applicant refuses to provide that information, then restart the clock. This gives ADEQ ample opportunity to suspend the clock at its leisure by simply requesting irrelevant or burdensome information from the applicant and waiting for the applicant to refuse to respond. Additionally, it is unclear why the time clocks are suspended after a notice of intent to rely is filed. The applicant has informed the Department that it wants to proceed with the application. The time clocks should be going.

Response. The suspension is deleted. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above and the “introduction to comments” immediately preceding Comment 1.

Comment 115. R18-1-520(B). [Was R18-1-520(C).] Delete this subsection and build the necessary time to perform these tasks into the times shown on the tables.

Response. No change to the proposed rule. This provision is already occurring within the time-frames as it is written. The lapse provision, however, is deleted.

Comment 116. R18-1-520(C). [Was R18-1-520(D).] Delete this subsection for the same reason given in Comment 115.

Response. The rule is modified for the reasons given in the response to Comment 114.

Comment 117. R18-1-521(B). Change this subsection in a manner similar to that suggested in Comments 47 and 104.

Response. No change to the proposed rule for the reasons given in the responses to Comment 47 and that the proposed language is more precise than the suggested language.

Comment 118. R18-1-521(C). Delete this subsection for the same reason as given in Comment 115.

Response. This subsection is modified to delete the lapse provision.

Comment 119. Proposed R18-1-521(D). Same questions concerning lapse dates as expressed in Comment 52.

Response. The subsection is deleted.

Comment 120. R18-1-521(D). [Was R18-1-521(E).] There are no time-frames to “reset.”

Response. No change to the proposed rule. The Department disagrees with this comment because the time-frames may be suspended at the time under other rule provisions such as R18-1-504(D).

Comment 121. R18-1-522(A). The cross-reference should be to 503(A)(3), not 503(A)(2).

Response. The citation is corrected.

Comment 122. R18-1-522(B). Change this subsection in a manner similar to that suggested in Comments 47 and 104.

Response. No change to the proposed rule for the reasons given in the response to Comment 47 and because the proposed language is more precise than the suggested language.

Comment 123. R18-1-523. It is unclear why this section is necessary. The statute sets forth the details of the refund and sanctions associated with missed deadlines. There is no reason for the Department to interpret this statutory section. This section should be eliminated. In the alternative, sections (C) and (D) only should be incorporated into the final rule.

Response. No change to the proposed rule. Article 7.1 is silent on several important matters in the application of the refund and penalty provisions when considered in context of the requirements of other statutes. Other parts of this section are included to clarify statutory requirements for the benefit of applicants, a common purpose of rule making. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above.

Comment 124. R18-1-523(B)(2). This section is confusing. The sanctions provided for in statute are not limited to “prospective licensee[s]” only. This section should be removed.

Arizona Administrative Register
Notices of Final Rulemaking

Response. No change to the proposed rule. The determination of the prospective licensee is one required by other statutes, especially those that require state employees not to disburse state funds to persons not entitled to receive them. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) and comment 41 above.

Comment 125. Reporting. A.R.S. §41-1078 does not preclude ADEQ from reporting compliance for those time-frames not listed in the proposed rule tables. ADEQ should report on all licenses issued, even those the Department considers exempt from the rule.

Response. No change to the proposed rule. The Department estimated that there may be in excess of 2500 categories if all activity not presently covered by Article 7.1 were included. It is not fiscally prudent or possible for the Department to expend resources on an effort that is not required by law in order to establish time-frames for the additional 2000-plus categories in such a way so as to give context to tracking. See additional discussion on these points at §§ 6(E)(3) and 6(G)(2) above.

Comment 126. R18-1-525. Change this Section as follows:

The following tables contain all administrative completeness review ~~time-frames~~ ~~time-frame clock~~ days, the substantive review ~~time-frames~~ ~~time-frame clock~~ days, and the references to application components for each license application category subject to this Article ~~are as shown on the license tables.~~

Response. “Time-frame clocks” is changed to “time-frames” as discussed in Comment 5. The other changes are inappropriate because the license tables are attached to the entire article and not just this Section.

Comment 127. Table 5, Groups I and II. These are for approval-to-construct (ATC) and approval-of-construction (AOC) for wells and treatment facilities. In particular for wells, a total administrative and substantive review of 43 business days (2 months as proposed) for the ATC and an additional 43 business days (2 months) for the AOC. A treatment facility requires 73 business days (3.5 months) for the ATC and 73 business days (3.5 months) for the AOC. In addition, treatment facilities are also covered under Table 7, group III, for treatment facilities causing up to an additional 208 business days (10 months). This long length of time will hinder the ability of the public water systems to provide water to customers.

Response. This categories are modified as shown in § 10 above. Generally, the administrative completeness review times frames are shortened.

Comment 128. Table 5, Group III [was Group V]. This covers approval of new drinking water sources. The administrative and substantive review requires a total of 43 business days (2 months) for a normal new source and 73 business days (3.5 months) for a complex drinking water new source approval. This length of time may hinder delivery of water to customers and there is also the concern that all new sources will be thrown into the “complex” category by ADEQ. The ADEQ needs to define “complex” and “normal.” Does the number of wells for a new source constitute what these are?

Response. This categories are modified as shown in § 10 above. Generally, the administrative completeness review times frames are shortened. “Complex” is defined in rule at R18-1-501(9). As explained at § 6(H)(5) above, the Department expects no more than 5-10% of applications received in this category to qualify as “complex.” Under today’s rule, the determination of “complex” must be based on the impact of the application on the Department’s application review resources rather than specific attributes of the application such as the number of wells for a new source.

Comment 129. Tables 6, 6-E, 6-N, and 6-S, (categories 5-6). These categories for individual on-site wastewater facilities construction approvals-to-construct should be reduced to 10 business days for the administrative completeness review time-frame (ACRTF) and 20 business days for the substantive review time-frame (SRTF).

Response: The Department has reduced the times shown in the proposed rule for these categories to 21 days (down from 32) for the ACRTF and 21 days for the SRTF. Department experience with the flow of applications in these categories shows that high peaks in application submissions can occur from time to time. This means that periods will occur when 10 days will not be sufficient to process all applications received using the very small staff available to do this work. Most times, however, the Department does expect to process applications in the ACRTF well within the 10 days. Still, the Department must set the higher number in this rulemaking to accommodate those expected peak times when such time will be needed especially because these applications are subject to sanctions.

Comment 130. Table 8, Group I (category 10). Monitoring waivers will require a total administrative and substantive review of 126 business days (6 months). This length of time is too long especially if it is for only 1 or 2 water source points-of-entry (POE). Perhaps something such as a time-frame based on the number of POEs is needed. An example is presented below.

Arizona Administrative Register
Notices of Final Rulemaking

Number of POEs	Number of Days
1-10	42 business days (2 months)
10-30	63 business days (3 months)
30 plus	105 business days (5 months)

Response. No change to the proposed rule. The Department expects that almost all waivers will be Department-initiated. For example, the Department is currently processing over 300 Department-initiated waivers. In accordance with R18-1-502(A)(1) and R18-1-502(A)(3), Department-initiated waivers are not subject to licensing time-frames because there are no applicants or required submittals to be processed. The waiver category in today's rule will apply only to those few waiver applications that the Department may receive from time to time outside of the quarterly Department-initiated review cycle. The Department expects such applications to be handled quickly (less than 2 months for substantive review) unless received during a period when the Department is also processing a large number of Department-initiated waivers at which time, the Department believes that it must have the time available as shown in the rule. Preapplication coordination by a prospective applicant, however, could significantly speed up review during this period and allow the Department to plan how it will process a specific monitoring waiver application as expeditiously as possible when it is also processing a large volume of Department-initiated waivers at the same time.

Comment 131. Table 8, Group III. These govern blending and monitoring plans. The total administrative and substantive review is 146 business days (7 months). This is too long for the time needed for review of these applications. Time-frames should be based on something such as the complexity or number of wells or water source points-of-entry (POE).

Response. This table is revised and expanded to reflect a review time difference based on POEs with the substantive review time-frames reduced to 42 and 84 business days based on POEs.

Comment 132. Tables 5 and 8. Although it is understood that some of these time periods are a worst case scenario and that the lack of necessary ADEQ staff may have resulted in these time-frame lengths. However, the needs of public water systems also need to be addressed and it should also be stated within the rules that these are the worst case scenarios.

Response. These tables are modified as described above. The Department believes, however, that an explanation that the times in the rule "represent a worst case scenario" belongs properly in the preamble and not in the rule text in accordance with the administrative procedure act. This is because the statement is explanatory rather than regulatory in nature.

Comment 133. Table 10, Non-major APP modifications. With respect to APP time-frames, ADEQ has often assigned the same presumptive time-frames to major modifications and other (non-major) modifications. See, e.g., Table 10, Group V, licenses 63-68 (mining permits). This is not reasonable.

A.R.S. § 49-201(19) includes within the category of major modifications activities that significantly increase the volume of pollutants discharged or adversely alter the characteristics of pollutants discharged, or additions of new processes or equipment that result in a discharge. By definition, other permit modifications are those that do not result in any of the above circumstances (for example, a change in a monitoring program, installation of a new monitoring well, contingency plan changes). As a general rule, these modifications should not prove nearly as difficult or time-consuming to process as major modifications, and therefore should be subject to shorter time-frames. Leaving the time-frames at their current overly long levels could result non-major modifications being simply ignored until the lengthy deadlines were about to expire, rather than being processed in a timely fashion.

A more reasonable time-frame would be 6 months (125 business days) to complete both administrative and technical review for non-major APP applications (for example, 21 days for administrative review, 105 days for substantive review). Many non-major modifications can be completed in a much shorter time, but a 6 month period would allow for the relatively rare case where a longer time is needed to handle a non-major APP modification.

Response. No change to the proposed rule. Today's rule already requires the Department to enforce a substantive review period not to exceed about 3 months to issue a proposed licensing decision. The times for all these categories are shown as the same on the tables in today's rule because the existing program rules that govern application review also show the same times. As explained in the preamble for these categories, the program rules allow 90 calendar days to issue a proposed licensing decision after an application is administratively complete whether the application was for a major or "other" (non-major) category. The remainder of the time is fixed to allow the minimum time necessary to publish the proposed decision and subject it to public comment. If the time after the proposed decision is issued is reduced in today's rule, it would be impossible for the Department to ever gain the authority necessary to make a final licensing decision prior to the expiration of the time-frames. This leaves only the 90-calendar day period