

# NOTICES OF FINAL RULEMAKING

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

**Editor's note: In accordance with A.A.C. R1-1-109(D), the following Notice of Final Rulemaking is republished to correct printing errors in the text and replaces Notice of Final Rulemaking: 7 A.A.R. 184 - 229, January 12, 2001.**

## NOTICE OF FINAL RULEMAKING

### TITLE 9. HEALTH SERVICES

#### CHAPTER 14. DEPARTMENT OF HEALTH SERVICES LABORATORIES

#### PREAMBLE

#### 1. Section Affected

#### Rulemaking Action

R9-14-601	Amend
R9-14-602	Amend
R9-14-603	Amend
R9-14-604	Amend
R9-14-605	Renumber
R9-14-605	New Section
R9-14-606	Renumber
R9-14-606	Amend
R9-14-607	Renumber
R9-14-607	Amend
R9-14-608	Renumber
R9-14-608	New Section
R9-14-609	Renumber
R9-14-609	Amend
R9-14-610	Renumber
R9-14-610	Amend
R9-14-611	Renumber
R9-14-611	Amend
R9-14-612	Renumber
R9-14-612	Amend
R9-14-613	Renumber
R9-14-613	Amend
R9-14-614	Renumber
R9-14-614	Amend
R9-14-615	Renumber
R9-14-615	Amend
R9-14-616	Repeal
R9-14-616	Renumber
R9-14-616	Amend
R9-14-617	Renumber
R9-14-617	Amend
R9-14-618	Renumber
R9-14-618	Amend
R9-14-619	Renumber
R9-14-619	Amend
R9-14-620	New Section
Table 1	New Table

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

Authorizing statutes: A.R.S. §§ 36-136 and 36-495.13

Implementing statutes: A.R.S. §§ 36-495.01, 36-495.02, 36-495.03, 36-495.05, 36-495.06, 36-495.07, 36-495.08, 36-495.09, and 36-495.14

**3. The effective date for the rule:**

December 15, 2000

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 4660, December 17, 1999

Notice of Proposed Rulemaking: 6 A.A.R. 3414, September 8, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 3702, September 29, 2000

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

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or

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

The rules pertain to licensing in-state and out-of-state laboratories that conduct testing of samples for contaminants, pollutants, and hazardous substances for state and federal environmental compliance purposes. The rules establish minimum standards of proficiency, methodology, quality assurance, operation, and safety for these environmental laboratories. The rules establish updated standards for environmental laboratory compliance testing; increase and clarify the fees associated with licensing; add a zone fee to be paid by out-of-state laboratories; create an installment payment plan to allow small businesses to pay their method and instrument fees, proficiency evaluation fees, and technical update fees on a monthly basis rather than in a lump sum; clarify time-frame requirements and add new time-frames; clarify the rules; and change the rules to conform to current rulemaking format and style requirements.

The Department developed the rules with the assistance of the Rules Subcommittee of the Environmental Laboratory Advisory Council. The Department worked with the Rules Subcommittee to revise the draft rules to address the concerns of Rules Subcommittee members. For example, the Department determined, as a result of Rules Subcommittee comments, that implementing an installment payment plan to allow small businesses to pay method and instrument, proficiency evaluation, and technical update fees on a monthly basis would ease the burden resulting from the fee increase in the rules. Also as a result of Rules Subcommittee concerns, the Department surveyed all licensed private laboratories regarding their small business status, to assure that the Department accurately portrayed the impact of the rules on small businesses. The Department also added several methods and made other revisions to the text of the rules at the request of Rules Subcommittee members.

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In this rulemaking, the Department is amending R9-14-601, R9-14-603, and R9-14-604 by replacing the current language with new language that conforms to current rulemaking format and style requirements. In addition, the new language in R9-14-601 adds definitions for terms previously undefined and for new terms. The Department is adding a new Section at R9-14-605 that clarifies that the Department may conduct compliance monitoring at any time and describes the procedures to be followed when the Department issues a notice of deficiencies. The current R9-14-605 is being renumbered to R9-14-606 and amended to clarify provisional licensing, to comply with A.R.S. § 36-495.05 and the Administrative Procedure Act, and to conform to current rulemaking format and style requirements.

The Department is renumbering and amending the current R9-14-613, R9-14-614, and R9-14-615 to clarify the rules and to conform to current rulemaking format and style requirements. The Department is renumbering and amending the current R9-14-606 to generate increased fees that reflect the costs to the Department of conducting laboratory inspections and investigations, verifying information submitted with applications, and performing other activities related to licensure. The amended fees Section will also add fees for new parameters. The Department set the fee increase at 30% because that is the level at which fee revenue will enable the Department to employ a full staff of auditors and thus complete inspections every 12 months, as the authorizing statutes intend. The Department is adding a new Section at R9-14-608 to explain the process for calculating and billing fees and to add the option of a payment plan for small businesses to pay their method and instrument, proficiency evaluation, and technical update fees on a monthly basis rather than in a lump sum.

The Department is renumbering and amending the current R9-14-608, R9-14-609, R9-14-610, R9-14-611, and R9-14-612 to be consistent with current United States Environmental Protection Agency (EPA) and Arizona Department of Environmental Quality (ADEQ) requirements. Since the rules were last revised in June 1997, the EPA and ADEQ have approved and required additional methods for testing environmental contaminants to implement improved and changing technologies that result in increased sensitivity, accuracy, and efficiency in environmental testing. Additionally, the EPA and ADEQ have disallowed the use of some outdated methods that employ older technologies. Thus, these Sections are being amended to add new methods and to delete outdated methods. In addition, the Department is amending the current R9-14-608 to correct the citation format of the material previously incorporated by reference, to make the information easier to use.

The Department is repealing R9-14-616, because laboratory safety is now being addressed as part of laboratory operation. The Department is also renumbering and amending the current R9-14-617 to clarify the requirements for mobile laboratories. The Department is also renumbering and amending the current R9-14-618 to clarify the requirements for out-of-state laboratories and to add a zone fee to cover the opportunity costs lost due to employee travel to out-of-state laboratories. Finally, the Department is adding a new time-frames Section at R9-14-620.

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

None

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

Not applicable

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

The rules increase the fees associated with licensing by 30%. This results in an increase in application fees by \$258 to \$420, depending on the number of parameters licensed for the laboratory and the number of facilities licensed. Each laboratory will also pay up to \$2,240 more in method and instrumentation fees, depending on the number of methods and instruments included on the laboratory's license. For most of the laboratories licensed (118 out of 156), this increase in method and instrumentation fees will be minimal, with 41 of the laboratories incurring an increase of less than \$100, 56 incurring an increase between \$100 and \$499, and 21 incurring an increase between \$500 and \$999. For the remaining 38 laboratories, the increase will be moderate at \$1,000 to \$2,803.

Each laboratory will also pay \$23 more each year for proficiency evaluation audits. Each out-of-state laboratory will also pay \$23 more each year for technical updates if the laboratory chooses to receive them by facsimile transmission rather than through the Internet.

The rules also add a zone fee of \$88 to \$225 to be paid by out-of-state laboratories to reimburse the Department for the time that each Department auditor is in travel status en route to on-site compliance monitoring activities. The zone fee is based on the time necessary to travel to the out-of-state laboratory and will be payable for each Department auditor who travels to the laboratory to conduct the compliance monitoring activity.

Approximately 25 of the 117 licensed private laboratories are small businesses, 10 of them out-of-state laboratories. Of these, 15 will be minimally impacted by the rules with a total increase in fees of between \$281 and \$916, and 10 will be moderately impacted with a total increase in fees of between \$1,014 and \$2,702. The Department is attempting to ease the burden of the increased fees on small businesses by allowing small businesses to pay method and instrument fees, proficiency evaluation fees, and technical update fees through a monthly installment plan rather than in a lump sum due at the time of application.

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The Department will incur moderate costs in implementing the rules. The Department will incur a cost of approximately \$1,500 initially for staff time to update the office of laboratory licensure's application and billing system. In addition, the Department will incur a moderate cost for staff time to write, review, and finalize the rules. The Office of the Secretary of State and the Governor's Regulatory Review Council will also incur minimal-to-moderate costs related to the rulemaking process.

The Department will benefit substantially from the rules because fee revenues could increase by as much as \$162,381 annually. The Department anticipates, however, that the 30% fee increase will result in an actual increase in fee revenue of 20-30% due to industry consolidations and individual laboratories' efforts to conserve funds by eliminating little used methods or parameters in renewing their licenses.

The fee increase is designed to enable the office to operate as the legislature intended by providing the funding needed for the office to fill 1.79 FTE auditor vacancies that have left the office inadequately staffed for more than 2 years. The office needs to fill the auditor vacancies to conduct audits every 12 months, as the authorizing statutes intend, rather than every 18 to 24 months, as is currently occurring.

Although the office had a small surplus for FY2000 (approximately \$13,900), this is due to the program's running with only 4.21 FTE auditors, 1.79 fewer than are needed. Even with only 4.21 FTE auditors, there is a projected funding surplus of only \$1,972 for FY2001. As of October 31, 2000, the program had an actual deficit of \$37,859.63 for FY2001. If the office had the 6 FTE auditors needed to perform inspections every 12 months (rather than the current 4.21 FTE auditors) and did not receive a fee increase, the projected deficit for FY2001 would be approximately \$107,500.

To compensate for the fee increases, laboratories may choose to increase testing fees charged to their clients, although in some instances this will not be possible. These clients, if drinking water or waste water treatment systems, may pass the increased testing fees on to system users, the public, who would notice very slight increases on their billing statements.

The public will be the primary beneficiary of the rules. The public is significantly affected by the accuracy of the data used to evaluate air quality; environmental projects such as hazardous waste clean-ups; engineering projects such as sewage treatment plants; and the quality of the drinking water in underground aquifers, underground wells, and surface waters. Without the fee increase included in the rules, the office of laboratory licensure will not be able to function effectively to monitor the environmental laboratories that perform this compliance testing, and the public may suffer as a result.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules:**

The table of contents is revised to show renumbering of Sections as required by A.A.C. R1-1-404.

In A.A.C. R9-14-601, subsection (3)(c) and subsection (31) are revised to make the definitions more clear, concise, and understandable.

In the new A.A.C. R9-14-605(D), the words "1 of the following, in which case the Department shall take action under A.R.S. § 36-495.09" are added to make the subsection more clear, concise, and understandable.

In the new A.A.C. R9-14-607(C)(7) and (8), the headings "Single Method" and "Combination" that were struck out in the republication of the Notice of Proposed Rulemaking are not struck out.

In the new A.A.C. R9-14-615(B)(4), the word "shall" is changed to "will" to make the subsection more clear, concise, and understandable.

In Table 1, in the 1st cell of the last row, the citation is changed from "A.A.C. R9-18-615(D)" to "A.A.C. R9-14-615(D)" to correct the citation.

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

<b>Rule</b>	<b>Question or Comment</b>	<b>Agency Response</b>
A.A.C. R9-14-604	What happens when a laboratory moves locations? This was included in the old rule, but is not in the new rule.	A.R.S. § 36-495.03(E) provides that a license is valid only for the facility or facilities for which it is issued. A.R.S. § 36-495 defines “facility” to mean “a place, building, installation, structure or vehicle”. Thus, when a laboratory moves from 1 facility to another, its license is no longer valid. As described in A.R.S. § 36-495.03(E), the license automatically expires unless the licensee notifies ADHS of the change in writing within 20 business days after the change and submits an application for a new license. ADHS will not charge a fee for this application and will issue the license if the laboratory is still in compliance with A.R.S. Title 36, Chapter 4.3 and the rules. Because this is adequately described in statute, ADHS did not include it within the rule.
A.A.C. R9-14-607	How is the payment of fees clarified by the rules?	ADHS has added a new Section at A.A.C. R9-14-608 entitled “Payment of Fees”. The new Section describes the ADHS procedures for calculating and billing fees. Previously, these procedures were not described.
A.A.C. R9-14-617(E)(6)	What is a “critical step” for purposes of recording test date and time?	The term “critical step” is defined in the new A.A.C. R9-14-601(18) as “an event in the testing procedure that is required to be performed within a specified time period by regulation, method, standard operating procedure, or quality assurance plan”. ADHS added the critical step language to clarify that certain dates and times are required to be included in a compliance testing record if events within the testing procedure are required to be performed within a specific time period. ADHS believes that the definition of “critical step” is clear, concise, and understandable and does not intend to make any changes to it. The commenter had not yet read the definition.
9 A.A.C. 14, Art. 6	The commenter expressed support for the rule changes.	ADHS appreciates the support.

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

Not applicable

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

R9-14-601(28): 40 CFR Part 136 app. B (1998).

R9-14-610(A):

- A3 Technicon Industrial Systems, Industrial Method No. 380-75WE, Fluoride in Water and Wastewater (July 1977).
- A4 Office of Water, EPA, Pub. No. EPA-821-R-99-005, Method 1631, Revision B: Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence Spectrometry (May 1999).
- C1 Hach Company, Hach Water Analysis Handbook (3rd ed. 1997).
- D3 National Exposure Research Laboratory–Cincinnati, EPA, Pub. No. EPA/600/R-95/131, Methods for the Determination of Organic Compounds in Drinking Water: Supplement III (August 1995).
- D4 Office of Ground Water and Drinking Water Technical Support Center, EPA, Pub. No. EPA 815-B-97-001, Manual for the Certification of Laboratories Analyzing Drinking Water: Criteria and Procedures Quality Assurance (4th ed. March 1997).

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- D5 J.W. Munch and W.J. Bashe, EPA, Method 549.2: Determination of Diquat and Paraquat in Drinking Water by Liquid-Solid Extraction and High Performance Liquid Chromatography with Ultraviolet Detection (rev. 1 1997).
- D6 Anne M. Pawlecki-Vonderheide and David J. Munch, EPA, Method 515.3: Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Extraction, Derivatization and Gas Chromatography with Electron Capture Detection (rev. 1 July 1996).
- E 40 CFR Part 136 app. A (1998).
- E1 Office of Water Engineering and Analysis Division, EPA, Pub. No. EPA-821-R-93-010-A, Methods for the Determination of Nonconventional Pesticides in Municipal and Industrial Wastewater: Volume I (rev. 1 August 1993).
- F Office of Solid Waste and Emergency Response, EPA, Pub. No. SW-846, Test Methods for Evaluating Solid Waste (3rd ed. 1986 & Update I, July 1992; Update IIA, August 1993; Update II, September 1994; Update IIB, January 1995; Update III, December 1996).
- H Environmental Monitoring Systems Laboratory–Research Triangle Park, EPA, Pub. No. EPA-600/M4-82-020, Interim Method for the Determination of Asbestos in Bulk Insulation Samples (December 1982).
- H2 Kim A. Brackett et al., EPA, Pub. No. EPA/600/R-94/134, Method 100.2: Determination of Asbestos Structures over 10 µm in Length in Drinking Water (June 1994).
- J1 L.L. Thatcher et al., U.S. Department of the Interior, “Methods for Determination of Radioactive Substances in Water and Fluvial Sediments,” published in Techniques of Water-Resources Investigations of the United States Geological Survey at bk. 5, ch. A5 (3rd ed. 1989).
- K Division of State Laboratory Services, Arizona Department of Health Services, Method No. BLS-188, Ethylene Glycol in Waste Water (rev. April 1991); and Bureau of State Laboratory Services, Arizona Department of Health Services, C<sub>10</sub> - C<sub>32</sub> Hydrocarbons in Soil - 8015AZ (rev. 1.0 September 1998).
- K1 Office of Water, EPA, Pub. No. EPA-821-R-98-002, Method 1664, Revision A: N-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated N-Hexane Extractable Material (SGT-HEM; Non-polar Material) by Extraction and Gravimetry (February 1999).
- K2 Office of Water, EPA, Pub. No. EPA-821-B-98-016, Analytical Methods for the Determination of Pollutants in Pharmaceutical Manufacturing Industry Wastewater (July 1998).
- M Environmental Monitoring Systems Laboratory–Cincinnati, EPA, Pub. No. EPA/600/4-90/027, Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms (4th ed. September 1991).
- M1 Environmental Monitoring Systems Laboratory–Cincinnati, EPA, Pub. No. EPA/600/4-90/027F, Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms (4th ed. August 1993).
- N Cornelius I. Weber et al., EPA, Pub. No. EPA/600/4-89/001, Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms (2nd ed. March 1989); and Environmental Monitoring and Support Laboratory–Cincinnati, EPA, Pub. No. EPA/600/4-89/001a, Supplement to “Short-term Methods for Estimating the Chronic Toxicity of Effluents and Surface Waters to Freshwater Organisms,” (EPA/600/4-89/001) (rev. 1 September 1989).
- N1 Environmental Monitoring Systems Laboratory–Cincinnati, EPA, Pub. No. EPA-600-4-91-002, Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms (3rd ed. July 1994).
- P1 Jay Vasconcelos and Stephanie Harris, EPA, Pub. No. EPA 910/9-92-029, Consensus Method for Determining Groundwaters Under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA) (October 1992).
- P2 G. Shay Fout et al., EPA, Pub. No. EPA/600/R-95/178, ICR Microbial Laboratory Manual (April 1996).
- P3 Charles P. Gerba, University of Arizona, UofA2000: *Ascaris lumbricoides* in Water (1999).
- S1 Center for Environmental Research Information, EPA, Pub. No. EPA/625/R-96/010b, Compendium Method TO-15: Determination of Volatile Organic Compounds (VOCs) in Air Collected in Specially-Prepared Canisters and Analyzed by Gas Chromatography/Mass Spectrometry (GC/MS) (January 1997).
- U Environmental Measurements Laboratory, U.S. Department of Energy, Pub. No. HASL-300, EML Procedures Manual, Vol. I (27th ed. rev. February 1992).

- X1 Bureau of Radiation and Inorganic Analytical Services, New Jersey Department of Environmental Protection, Determination of Ra-228 in Drinking Water (August 1990).
- Y Office of Water, EPA, Pub. No. EPA/821/R-99/013, Method OIA-1677: Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry (January 2000).

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

No

**15. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 14. DEPARTMENT OF HEALTH SERVICES LABORATORIES**

**ARTICLE 6. LICENSING OF ENVIRONMENTAL LABORATORIES**

- R9-14-601. Definitions
- R9-14-602. ~~License~~ Applicability
- R9-14-603. Initial ~~License~~ License Process
- R9-14-604. ~~License~~ Regular License Renewal Process
- R9-14-605. Compliance Monitoring
- ~~R9-14-605.~~ R9-14-606. Provisional License Licensing
- ~~R9-14-606.~~ R9-14-607. License fees Fees
- R9-14-608. Payment of Fees
- ~~R9-14-607.~~ R9-14-609. Proficiency Evaluation
- ~~R9-14-608.~~ R9-14-610. Approved Methods and References
- ~~R9-14-609.~~ R9-14-611. Drinking Water Sample ~~Matrix~~ Methods
- ~~R9-14-610.~~ R9-14-612. Wastewater Sample ~~Matrix~~ Methods
- ~~R9-14-611.~~ R9-14-613. Solid, Liquid, and Hazardous Waste Sample ~~Matrix~~ Methods
- ~~R9-14-612.~~ R9-14-614. Air Sample ~~Matrix~~ Methods
- ~~R9-14-613.~~ R9-14-615. Quality Assurance
- ~~R9-14-616. Laboratory Safety~~
- ~~R9-14-614.~~ R9-14-616. Operation
- ~~R9-14-615.~~ R9-14-617. Laboratory Records and Reports
- ~~R9-14-617.~~ R9-14-618. Mobile Laboratories
- ~~R9-14-618.~~ R9-14-619. Out-of-State Environmental Laboratory ~~License~~ Licensing
- R9-14-620. Time-frames
- Table 1. Time-frames (in days)

**ARTICLE 6. LICENSING OF ENVIRONMENTAL LABORATORIES**

**R9-14-601. Definitions**

Words and phrases defined in A.R.S. §§ 36-495 have the same meaning when used in these rules. In this Article, unless otherwise specified:

1. "ADEQ" means the Arizona Department of Environmental Quality.
2. "Approved method" means an analytical test method which is recognized by the Department as acceptable to test for the presence of the particular contaminant.
3. "Arizona Permit System for Aquifer Protection" means the permit system specified in A.R.S. §§ 49-241 through 49-251.
4. "Arizona Permit System for Reuse of Wastewater" means the permit system specified in A.R.S. §§ 49-104 and 49-250.
5. "Blind proficiency evaluation audit" means that the Department submits a series of proficiency evaluation samples to a laboratory in such a manner that the laboratory is unaware that it is testing a proficiency evaluation sample.
6. "Categories" of laboratory testing means drinking water, wastewater, hazardous waste, or air.
7. "Clean Air Act" means 42 U.S.C.A. 7401-7642.
8. "Clean Water Act" means 33 U.S.C.A. 1251-1376.
9. "Comprehensive Environmental Response, Compensation and Liability Act" means 42 U.S.C.A. 9601-9657, commonly referred to as the Superfund Act.
10. "Contiguous grounds" means real property which can be enclosed by a single unbroken boundary line which does not enclose property owned or leased by others.
11. "Effluent" means an outflow, as of a stream which flows out of a facility.

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12. "Environmental water laboratory" means a laboratory that holds a valid license issued by the Department prior to the effective date of this Article.
13. "EPA" means the United States Environmental Protection Agency.
14. "Federal Insecticide Fungicide and Rodenticide Act" means 7 U.S.C.A. 136-136y.
15. "Intercomparison studies" means the proficiency evaluation service for radiochemical samples established by EPA's Environmental Monitoring Systems Laboratory.
16. "Licensure" means the approval by the Department of a laboratory to perform compliance testing for environmental monitoring programs, categories of laboratory testing, parameters of laboratory testing and approved methods of laboratory testing as defined in A.R.S. § 36-495.03 through A.R.S. § 36-495.16 and this Article.
17. "Parameter" means 1 of a set of chemical, physical, radiochemical, microbiological, or biological properties whose value determines the characteristics of an environmental sample.
18. "Proficiency evaluation audit" means an audit conducted by a service on a series of samples submitted to a laboratory for use in evaluating the laboratory's ability to correctly analyze compliance testing samples.
19. "Proficiency evaluation service" means the Department, EPA, or an independent service acceptable to the Department which provides proficiency evaluation audit samples and evaluates the results of the proficiency evaluation audit.
20. "Principal State Laboratory System" means the system which includes the Department, Division of State Laboratory Services, and the Radiation Regulatory Agency Laboratory, which are certified by EPA.
21. "Radiation assessment proficiency evaluation audit" means any proficiency evaluation audit required by EPA under the Safe Drinking Water Act for radiochemistry testing.
22. "Resource Conservation and Recovery Act" means 42 U.S.C.A. 6921-6939B.
23. "Safe Drinking Water Act" means 42 U.S.C.A. 300f-300j-11.
24. "Single Method" means the approved method licensure fee for any single method listed in that subsection.
25. "U.S.C.A." means *United States Code Annotated*.
26. "Water pollution proficiency evaluation audit" means any proficiency evaluation audit established by the EPA under the Clean Water Act.
27. "Water supply study audit" means any proficiency evaluation audit required by the EPA under the Safe Drinking Water Act.

In addition to the definitions in A.R.S. § 36-495, the following definitions apply in this Article, unless otherwise specified:

1. "Acceptance criteria" means the range of satisfactory test results for a parameter.
2. "ADEQ" means the Arizona Department of Environmental Quality.
3. "Affiliate" means a business organization that:
  - a. Controls or has the power to control the business organization that owns the laboratory.
  - b. Is controlled by or could be controlled by the business organization that owns the laboratory, or
  - c. Could be controlled by a 3rd business organization that could also control the business organization that owns the laboratory.
4. "Alternate method" means an analytical test procedure or technique not listed by parameter in A.A.C. R9-14-611 through R9-14-614, but approved by the Department following the procedures in A.A.C. R9-14-610(B).
5. "Analyst" means an individual who performs compliance testing at a laboratory.
6. "Applicant" means the following individual or individuals requesting a license on behalf of a business organization that owns a laboratory:
  - a. If the laboratory is owned by a sole proprietor, the individual owning the laboratory;
  - b. If the laboratory is owned by an unincorporated association, any 2 individuals who together own a majority interest in the laboratory;
  - c. If the laboratory is owned by a corporation, any 2 officers of the corporation;
  - d. If the laboratory is owned by a limited liability company, the designated manager or, if no manager is designated, any 2 members of the limited liability company;
  - e. If the laboratory is owned by a partnership, any 2 of the partners; or
  - f. If the laboratory is owned by a governmental entity, the designated director of the laboratory.
7. "Approved method" means an analytical test procedure or technique authorized by the Department to test for the presence of a particular contaminant.
8. "ASTM" means American Society for Testing and Materials.
9. "Blind proficiency evaluation audit" means the Department's determination of a laboratory's ability to analyze samples correctly, accomplished by submitting samples for testing in such a manner that the laboratory is not aware that they are test samples.
10. "BLS" means Bureau of State Laboratory Services.
11. "Business organization" means an entity such as a sole proprietorship, an unincorporated association, a corporation, a limited liability company, a partnership, or a governmental entity.

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12. “Classification Level I license” means an approval issued by the Department to a laboratory authorizing compliance testing of 1 to 9 total parameters.
13. “Classification Level II license” means an approval issued by the Department to a laboratory authorizing compliance testing of 10 to 17 total parameters.
14. “Classification Level III license” means an approval issued by the Department to a laboratory authorizing compliance testing of more than 17 total parameters.
15. “Client” means an individual or a business organization that submits a sample to a laboratory for compliance testing.
16. “Contaminant” means a matter, pollutant, hazardous substance, or other substance for which a sample is being tested.
17. “Contiguous grounds” means real property that can be enclosed by a single unbroken boundary line that does not enclose property owned or leased by another.
18. “Critical step” means an event in the testing procedure that is required to be performed within a specified time period by regulation, method, standard operating procedure, or quality assurance plan.
19. “Data outlier” means a test result that falls outside of acceptance criteria.
20. “Days” means calendar days, excluding the day of the act, event, or default from which a designated period of time begins to run and excluding the last day of the period if it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, a Sunday, or a legal holiday.
21. “Effluent” means an outflow, as of a stream that flows out of a facility.
22. “EPA” means the United States Environmental Protection Agency.
23. “Initial Demonstration of Capability” means a test performed by an analyst, as prescribed by a method, to document the analyst’s ability to perform the method at the laboratory.
24. “Investigation” means an evaluation of laboratory compliance conducted by the Department upon its own initiative or upon receipt of a written complaint.
25. “Laboratory inspection” means the Department’s initial or annual assessment of a laboratory’s operations to determine compliance.
26. “Licensee” means a person or persons to whom the Department issues a license to operate a laboratory.
27. “Method” means an analytical test procedure or technique.
28. “Method detection limit” means the minimum concentration of a contaminant that can be measured and reported with 99% confidence that the concentration of the contaminant is greater than 0, determined from analyzing a sample in a given parameter as prescribed by the individual method or by 40 CFR Part 136 app. B (1998), which is incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
29. “Method reporting limit” means the minimum concentration of a contaminant that a laboratory routinely reports after analyzing a sample in a given parameter.
30. “Mobile laboratory” means a non-stationary facility where analysts test samples.
31. “Parameter” means the combination of a particular type of sample with a particular test method by which the sample will be analyzed for a particular contaminant.
32. “Proficiency evaluation audit” means a proficiency evaluation service’s determination of a laboratory’s ability to analyze samples correctly, accomplished by submitting samples to the laboratory for testing and then analyzing the acceptability of the laboratory’s results.
33. “Proficiency evaluation service” means the Department, the EPA, or an independent service acceptable to the Department.
34. “Principal State Laboratory System” means the Department, the Bureau of State Laboratory Services, and the Radiation Regulatory Agency Laboratory.
35. “Quality control checks” means the steps taken by a laboratory to monitor the accuracy and precision of its analysis of samples.
36. “RDX” means Hexahydro-1,3,5-trinitro-1,3,5-triazine.
37. “Records” means all written, recorded, and electronic documentation necessary to reconstruct all laboratory activities that produce data and includes all information relating to the laboratory’s equipment, analytical test methods, and related activities.
38. “Sample” means a specimen that is a representative part of a whole or a single item from a group.
39. “Single laboratory” means an individual laboratory facility or multiple laboratory facilities located on contiguous grounds and owned by the same person.
40. “Small business” means a business organization, including its affiliates, that is independently owned and operated, that is not dominant in its field, and that employs fewer than 100 full-time employees or had gross annual receipts of less than \$4 million in its last fiscal year.
41. “Standard operating procedure” means the reduction to writing of a laboratory’s method for carrying on business, analysis, or action, with techniques and procedures for performing routine or repetitive tasks.

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42. “Statistical outlier” means an individual data point that has a value far from those of the other data points in a set and that has been determined through statistical analysis to have derived from a different population than the other data points.

**R9-14-602. License Applicability**

- ~~A.~~ This Article ~~shall does~~ not apply to ~~compliance testing of those laboratories and parameters as outlined in~~ exempted by A.R.S. §§ 36-495.02.A.3; § 36-495.02(A) or to
- ~~B.~~ This Article ~~shall not apply to laboratory compliance testing which is performed pursuant to~~ under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136-136y.

**R9-14-603. Initial ~~Licensure~~ License Process**

- ~~A.~~ To ~~obtain a license the laboratory shall file a complete application on a form provided by the Department pursuant to~~ A.R.S. § 36-495.03 (A) and (B), and submit payment of all applicable fees to the Department pursuant to R9-14-606.
- ~~B.~~ Multiple laboratories ~~located on contiguous grounds and under the same ownership may be licensed under a single license.~~
- ~~C.~~ Multiple laboratories, including mobile laboratories located on non-contiguous grounds and under the same ownership may be licensed independently or under a single license at the owner’s discretion. If the laboratory chooses the single license option, each nonmobile laboratory shall be located within Arizona and each mobile laboratory shall maintain Arizona vehicle registration.
- ~~D.~~ An application for licensure shall be made for any of the approved methods contained in R9-14-608 and R9-14-609 through R9-14-612 for ~~compliance testing required by ADEQ; the Clean Air Act; the Clean Water Act; the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; the Safe Drinking Water Act; or the Toxic Substance Control Act.~~
- ~~E.~~ The Department shall determine if the application is complete and mail notification to the applicant with a detailed list of deficiencies if incomplete within 3 weeks from receipt of the application and fees. An application is not complete without payment of all applicable fees. Upon receipt of a complete application, the Department shall schedule a laboratory inspection, proficiency evaluation audit, or both, no longer than 1 month later for an in-state lab and 2 months later for an out-of-state lab. The Department and applicant may mutually agree to extend the inspection date.
- ~~F.~~ The Department may grant a temporary license for all sample matrices except drinking water, to an out-of-state laboratory, before an on-site inspection occurs, provided:
  - 1. The laboratory has submitted a complete application;
  - 2. The laboratory has provided successful proficiency evaluation results from current EPA studies or 3rd party proficiency evaluation audits, and
  - 3. The laboratory has provided current certification information for comparable testing from another state certification program.
- ~~G.~~ The Department shall provide the laboratory director with a written report of findings of compliance with A.R.S. Title 36, Chapter 4.3, Article 1 and this Article, within 6 weeks from the completion of any inspection, investigation, or proficiency evaluation audit.
- ~~H.~~ If the laboratory is not in compliance:
  - 1. Within 3 weeks from receipt of a report of noncompliance, the laboratory shall submit a written corrective action plan acceptable to the Department with corrective action and completion dates no longer than 4 months from the date the laboratory receives the written report of noncompliance.
  - 2. Within 6 weeks of receipt of the laboratory’s plan of corrective action, the Department shall provide the laboratory with a written approval or disapproval.
  - 3. If the laboratory’s plan of corrective action is disapproved by the Department, the laboratory shall submit a new corrective action plan for the items which the Department has disapproved within 3 weeks from receipt of the Department’s written disapproval.
  - 4. Within 3 weeks of receipt of the laboratory’s revised corrective action plan, the Department shall provide the laboratory with a written approval or disapproval of the revised plan.
- ~~I.~~ The Department will send written notification of approval or denial of an application within 9 months for an in-state lab and 10 months for an out-of-state lab. Denials shall set forth the reasons for denial and all other information required under A.R.S. § 41-1076.
- ~~J.~~ This Section shall apply to a laboratory not currently licensed in Arizona until either of the following occurs:
  - 1. The laboratory owner or operator is issued a laboratory license pursuant to this Article, or
  - 2. The laboratory owner or operator is notified of the Department’s intent to deny a laboratory license.
- ~~K.~~ Notification by the Department of issuance or denial of a license shall not exceed 9 months for in-state labs, and 10 months for out-of-state labs from the date that the Department determined that the application was complete. Completeness review is 3 weeks. The overall time frame is 9 months and 3 weeks for in-state labs and 10 months and 3 weeks for out-of-state labs.

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- ~~L.~~ For the purpose of computing time frames in this Section ~~intermediate Saturdays, Sundays, and legal holidays shall be included in the computation. The last day of the time period will be included unless it is a Saturday, Sunday, or legal holiday.~~
- A.** To obtain a license, an applicant shall submit to the Department a completed application on a form provided by the Department. The application shall comply with A.R.S. § 36-495.03(A)-(B). An applicant shall submit to the Department the appropriate application fee or fees along with the completed application form.
- B.** An applicant shall submit the following information on the application form:
  - 1. The name of the laboratory;
  - 2. The physical and mailing address of the laboratory;
  - 3. The name and address of each individual and business organization that has an ownership interest in the laboratory;
  - 4. For each business organization with an ownership interest in the laboratory, the name of each officer, principal, and statutory agent;
  - 5. The name of the individual directing the laboratory;
  - 6. The classification level for which applied;
  - 7. Whether the applicant is applying for a single laboratory or multiple laboratories;
  - 8. If the applicant is applying for a mobile laboratory, the vehicle make, vehicle identification number, and Arizona vehicle license number of the laboratory;
  - 9. If the applicant is applying for a mobile laboratory that is affiliated with a non-mobile laboratory, the name of the non-mobile laboratory;
  - 10. The name, title, and educational background of each individual authorized to sign final reports for the laboratory;
  - 11. A list of the references and methods for which the applicant is requesting a license;
  - 12. A list of the instruments and equipment that the laboratory will use for compliance testing;
  - 13. A list of the software that the laboratory will use for instrument control and data reduction interpretation;
  - 14. If the applicant is applying for an out-of-state laboratory, whether the applicant wants the laboratory to receive technical updates by facsimile transmission or through the Internet;
  - 15. If the applicant is applying as a small business for a private laboratory and wants to pay method, instrument, and proficiency evaluation fees in installments, the applicant shall provide the following information:
    - a. A list of the affiliates of the business organization that owns the laboratory;
    - b. The relationship between each affiliate and the business organization that owns the laboratory;
    - c. Whether the laboratory is independently owned and operated;
    - d. The type of business organization that owns the laboratory;
    - e. If the business organization that owns the laboratory is a corporation, whether the stock of the corporation or any of its affiliates is publicly traded;
    - f. The number of individuals employed full-time by the business organization that owns the laboratory;
    - g. The number of individuals employed full-time by each affiliate of the business organization that owns the laboratory;
    - h. Whether the gross annual receipts of the business organization that owns the laboratory were less than or greater than or equal to \$4,000,000 in the last fiscal year;
    - i. Whether the combined gross annual receipts of the affiliates of the business organization that owns the laboratory were less than or greater than or equal to \$4,000,000 in the last fiscal year; and
    - j. Whether the business organization that owns the laboratory is dominant in its field; and
  - 16. A notarized statement by the applicant and the director of the laboratory verifying the information on the application.
- C.** The application may include an agreement between the applicant and the Department that the Department may submit supplemental requests for additional information.
- D.** Multiple laboratories located on contiguous grounds and owned by the same person may be:
  - 1. Licensed as a single laboratory, or
  - 2. Licensed separately if the applicant submits an application and an application fee as required by A.A.C. R9-14-607(A) for each laboratory.
- E.** Multiple laboratories, including mobile laboratories, located on noncontiguous grounds and owned by the same person may be:
  - 1. Licensed separately, or
  - 2. Operated under a single license if:
    - a. The applicant submits an application and an application fee as required by A.A.C. R9-14-607(B) for each laboratory.
    - b. Each non-mobile laboratory is located in Arizona, and
    - c. Each mobile laboratory maintains an Arizona vehicle registration.
- F.** An application is not complete without payment of the appropriate application fee or fees and payment of the amount billed under A.A.C. R9-14-608(C).

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**R9-14-604. ~~Licensure Regular License Renewal Process~~**

- ~~A. At least 1 month prior to the expiration of its current license, a laboratory must submit to the Department, a complete application and payment of all applicable fees prescribed in A.A.C. R9-14-606.~~
- ~~B. The Department shall notify the laboratory director of any deficiency in the application and payment of fees within 3 weeks from the receipt of the application and fees. If the application is complete and proper fees are submitted, the Department shall renew a laboratory license, unless the Director determines pursuant to A.R.S. § 36-495.09 that grounds exist to deny the license.~~
- ~~C. The Department may grant a temporary license to a laboratory with an existing laboratory license, if the laboratory is moving to a new location. The Department shall not grant the temporary license to such laboratories if the owner or director is also changed.~~
- ~~D. The Department may conduct a laboratory inspection or proficiency evaluation audit, or both, at any time during the licensure period.~~
- ~~E. The Department shall provide the laboratory director with a written report of findings within 6 weeks from the completion of any inspection, investigation, or proficiency evaluation audit.~~
- ~~F. A licensed laboratory that cannot demonstrate compliance with this Article, shall submit to the Department within 6 weeks from the date the laboratory receives the written report of findings, a written plan to correct deficiencies listed in the written report of findings with corrective action and completion dates acceptable to the Department.~~
- ~~G. The Department shall provide the laboratory with a written response within 6 weeks of receipt of the laboratory's plan of corrective action to the Department's written report of findings.~~
- A. To renew a regular license, an applicant shall submit to the Department an application completed on the same type of form used for an initial license. An applicant shall submit to the Department the appropriate application fee or fees along with the completed application form.
- B. If the applicant is applying for an in-state laboratory, the applicant shall submit the completed application at least 30 days before expiration of the current license.
- C. If the applicant is applying for an out-of-state laboratory, the applicant shall submit the completed application at least 60 days before expiration of the current license.
- D. An application is not complete without payment of the appropriate application fee or fees and payment of the amount billed under A.A.C. R9-14-608(C).

**R9-14-605. Compliance Monitoring**

- A. The Department shall conduct a laboratory inspection and may conduct an investigation or proficiency evaluation audit, or both, of an applicant's laboratory as part of the substantive review for an initial license.
  - 1. The Department shall commence the laboratory inspection, investigation, or proficiency evaluation audit, or combination of the 3, no more than 30 days after notice of administrative completeness has been mailed for an in-state laboratory or no more than 60 days after notice of administrative completeness has been mailed for an out-of-state laboratory.
  - 2. The Department and applicant may mutually agree in writing to extend the laboratory inspection, investigation, or proficiency evaluation audit dates.
- B. The Department may conduct a laboratory inspection, investigation, or proficiency evaluation audit, or any combination of the 3, of a licensee's or applicant's laboratory at any other time before or during the license period.
- C. The Department shall comply with A.R.S. § 41-1009 in conducting laboratory inspections and investigations that occur at a laboratory.
- D. If the Department determines based on a laboratory inspection, investigation, or proficiency evaluation audit, or any combination of the 3, that a laboratory is not in compliance with A.R.S. Title 36, Chapter 4.3 and this Article, the Department shall request that the licensee or applicant submit to the Department a written corrective action plan, unless the Department determines 1 of the following, in which case the Department shall take action under A.R.S. § 36-495.09:
  - 1. That the deficiencies were committed intentionally;
  - 2. That the deficiencies cannot be corrected within a reasonable period of time;
  - 3. That the deficiencies are evidence of a pattern of noncompliance;
  - 4. That the deficiencies are a risk to any person; the public health, safety, or welfare; or the environment; or
  - 5. That there is a reasonable belief, as stated in A.R.S. § 36-495.09(B), that a violation of A.R.S. § 36-495.09(A)(5) has occurred and that the life or safety of the public is immediately affected.
- E. A corrective action plan shall be in writing and shall include the corrective action that will be taken and the date by which corrective action will be completed, which cannot be more than 120 days after the date that the Department requested the corrective action plan.
  - 1. A licensee shall submit a corrective action plan to the Department within 45 days from the date that the Department requested the corrective action plan.
  - 2. An applicant shall submit a corrective action plan to the Department within 28 days from the date that the Department requested the corrective action plan.

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- F.** If the Department disapproves a corrective action plan, the Department shall send to the licensee or applicant a written notice of disapproval requesting that the licensee or applicant submit to the Department a revised corrective action plan for the items that the Department disapproved.
  - 1. A licensee or an applicant shall submit the revised corrective action plan to the Department within 21 days from the date of the written notice of disapproval.
  - 2. If a licensee or an applicant does not submit a revised corrective action plan within 21 days from the date of the written notice of disapproval, the Department may deny the application or take any other action authorized by law.
- G.** A licensee or an applicant shall notify the Department when corrective action has been completed.
- H.** The Department shall determine if a laboratory is in substantial compliance with A.R.S. Title 36, Chapter 4.3 and this Article within 30 days of notification that the corrective action has been completed. If the Department determines that the licensee or applicant has not corrected the deficiencies or that the licensee or applicant has not corrected the deficiencies within a reasonable period of time, the Department may take any enforcement action authorized by law as a result of the deficiencies.
- I.** Under A.R.S. § 41-1009(G), the Department's decision regarding whether a licensee or an applicant may submit a corrective action plan to correct deficiencies identified in a laboratory inspection or investigation at the laboratory or whether these deficiencies have been corrected or have not been corrected within a reasonable period of time is not an appealable agency action as defined by A.R.S. § 41-1092.

**R9-14-605 R9-14-606. Provisional Licensure Licensing**

- A.** The Department may issue a provisional license to a licensee when ~~its~~ the Department suspends the licensee's regular license because of deficiencies identified in an investigation, laboratory inspection, or proficiency evaluation audit ~~identifies~~ deficiencies, but the number and nature of deficiencies do not pose a risk to public health, safety, or the environment.
- B.** The Department may issue a provisional license for any of the following reasons:
  - 1. The laboratory does not adhere to the applicable references in R9-14-608 or the requirements for facilities, equipment, reagents, quality control practices, or approved methods appropriate to the sample matrix as listed in R9-14-609 through R9-14-612;
  - 2. The laboratory fails to participate in a proficiency evaluation audit and submit results within the acceptance limits or the time frames established by the proficiency evaluation service;
  - 3. Two consecutive proficiency evaluation audit reports have the same parameter deemed outside acceptance limits by a proficiency evaluation service; or
  - 4. The laboratory fails to submit a written corrective action report to the Department within 6 weeks of the receipt of proficiency evaluation audit results that are deemed outside acceptable limits.
- ~~CB.~~** The Department shall issue an amended certified list of parameters for ~~the~~ a provisional license.
- ~~DC.~~** The ~~A~~ licensee shall return its regular license to the Department within ~~10 working~~ 14 days from the date of receipt of written notification ~~that the Department issued a provisional license~~ of the license suspension.
- ~~ED.~~** A provisional license ~~shall be~~ is valid for a set period established by the Department, not to exceed ~~the expiration date of the laboratory's suspended license~~ 12 months.
- ~~FE.~~** A laboratory ~~A licensee~~ with a provisional license ~~may who desires to~~ renew ~~its~~ the laboratory's regular license provided that it applies ~~shall apply~~ for renewal at least 6 weeks prior to the 30 days before expiration of its ~~the~~ provisional license. At such time, ~~the~~ The Department shall issue to the laboratory a regular renewed license renewal ; unless the Director determines pursuant to A.R.S. § 36-495.09 that grounds exist to revoke the license ~~the licensee is not in full compliance with the corrective action plan; A.R.S. Title 36, Chapter 4.3; and this Article.~~
- F.** The Department shall not issue a provisional license to an applicant for an initial license.

**R9-14-606 R9-14-607. Licensure fees Fees**

- A.** Each laboratory applying for a license shall pay to the Department, at the time of application, a nonrefundable application fee except as required by A.R.S. § 41-1077, in U.S. dollars, dependent upon the following laboratory license classifications: An applicant applying for a single license for a single laboratory shall submit to the Department, at the time of application, the following non-refundable application fee:
  - 1. For a classification Level I – A license for compliance testing is limited to 1 to 9 total parameters in any combination of categories of laboratory testing- license: \$1,000.00  
\$1,300.00
  - 2. For a classification Level II – A license for compliance testing is limited to 10 to 17 total parameters in any combination of categories of laboratory testing- license: \$1,270.00  
\$1,651.00
  - 3. For a classification Level III – A license for compliance testing for greater than 17 total parameters in any combination of categories of laboratory testing- license: \$1,400.00  
\$1,820.00

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**B. ~~Multiple laboratories~~ An applicant applying under the for a single license option for multiple laboratories not on contiguous grounds shall pay submit to the Department, at the time of application, a non-refundable application fee, ~~except as required by A.R.S. § 41-1077, for each noncontiguous laboratory, as outlined in R9-14-603, dependent upon the following laboratory license classifications as follows:~~**

- |  |  |
|--|--|
| 1. <u>For a classification</u> Level I <del>license:</del>   | \$ <del>860.00</del> <u>\$1,118.00</u>   |
| 2. <u>For a classification</u> Level II <del>license:</del>  | \$ <del>1,130.00</del> <u>\$1,469.00</u> |
| 3. <u>For a classification</u> Level III <del>license:</del> | \$ <del>1,270.00</del> <u>\$1,651.00</u> |

**C. ~~Concurrently with the licensure application fee, the applicant~~ A licensee or an applicant shall pay submit to the Department a non-refundable fee, ~~except as required by A.R.S. § 41-1077, for licensure of licensing each approved methods method, alternate method, and associated instrumentation calculated by the Department instrument requested on the application or during the license period, as follows:~~**

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|--|--|
| 1. Microbiology Testing Fees   |  |
| a) Total coliform:   |  |
| i. Most Probable Number  | \$ <del>136.00</del> <u>\$177.00</u>   |
| ii. Membrane filtration  | <del>136.00</del> <u>177.00</u>  |
| iii. <del>MMO-MUG (Colilert or Colisure only)</del>  | <del>91.00</del> <u>118.00</u>   |
| iv. <u>Colisure</u>  | <u>118.00</u>  |
| v. Presence-Absence  | <del>136.00</del> <u>177.00</u>  |
| b) Fecal coliform:   |  |
| i. Most Probable Number  | <del>136.00</del> <u>177.00</u>  |
| ii. Membrane filtration  | <del>136.00</del> <u>177.00</u>  |
| c) Fecal streptococcus:  |  |
| i. Most Probable Number  | <del>136.00</del> <u>177.00</u>  |
| ii. Membrane filtration  | <del>136.00</del> <u>177.00</u>  |
| d. Salmonella  | <del>136.00</del> <u>177.00</u>  |
| e. Heterotrophic plate count   | <del>91.00</del> <u>118.00</u>   |
| f. Any 1 approved method in each group for total coliform, fecal coliform, fecal streptococcus, Salmonella, and heterotrophic plate count.   | <del>408.00</del> <u>530.00</u>  |
| g. Any combination of approved methods for total coliform, fecal coliform, fecal streptococcus, Salmonella, and heterotrophic plate count.   | <del>725.00</del> <u>943.00</u>  |
| h. Viruses   | <del>227.00</del> <u>295.00</u>  |
| i. Parasites   | <del>227.00</del> <u>295.00</u>  |
| j. <u>Microscopic Particulate Analysis</u>   | <u>199.00</u>  |
| 2. Bioassay  |  |
| Any combination of methods for estimating the chronic and acute toxicity of effluents and waters to fresh water organisms.   | <del>\$544.00</del> <u>\$707.00</u>  |
| 3. Demand  |  |
| a. Biochemical Oxygen Demand   | <del>\$91.00</del> <u>\$118.00</u>   |
| b. Chemical Oxygen Demand  | <del>91.00</del> <u>118.00</u>   |
| 4. Inorganic Chemistry - Metals  |  |
| a) <del>Flame atomic absorption (FAA) approved methods.</del>  |  |
| i. Each metal for which the laboratory applies using any single <del>FAA flame atomic absorption</del> approved method from any single approved method reference.                                | <del>\$15.00</del> <u>\$20.00</u> each, up to a maximum of <del>\$295.00</del> <u>\$384.00</u> |
| ii. Each metal for which the laboratory applies using any combination of <del>FAA flame atomic absorption</del> approved methods from any combination of approved method references.             | <del>\$24.00</del> <u>\$31.00</u> each, up to a maximum of <del>\$468.00</del> <u>\$608.00</u> |
| b) <del>Electrothermal graphite furnace atomic absorption (GFAA) approved methods.</del>   |  |
| i. Each metal for which the laboratory applies using any single <del>GFAA graphite furnace atomic absorption</del> approved method from any single approved method reference.                    | <del>\$15.00</del> <u>\$20.00</u> each, up to a maximum of <del>\$272.00</del> <u>\$354.00</u> |
| ii. Each metal for which the laboratory applies using any combination of <del>GFAA graphite furnace atomic absorption</del> approved methods from any combination of approved method references. | <del>\$24.00</del> <u>\$31.00</u> each, up to a maximum of <del>\$435.00</del> <u>\$566.00</u> |
| c) <del>Inductively Coupled Plasma (ICP) coupled plasma</del> emission spectrometer approved methods.  |  |

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i.	Each metal for which the laboratory applies using any single <del>ICP</del> <u>inductively coupled plasma</u> approved method from any single approved method reference.	\$12.00 <del>\$16.00</del> each, up to a maximum of <del>\$260.00</del> <u>\$338.00</u>
ii.	Each metal for which the laboratory applies using any combination of <del>ICP</del> <u>inductively coupled plasma</u> approved methods from any combination of approved method references.	\$18.00 <del>\$23.00</del> each, up to a maximum of <del>\$390.00</del> <u>\$507.00</u>
d) <del>2</del>	<del>Inductively Coupled Plasma/Mass Spectrometer(ICP/MS)</del> <u>coupled plasma/mass spectrometer</u> approved methods. Each metal for which the laboratory applies using any <del>ICP/MS</del> <u>inductively coupled plasma/mass spectrometer</u> approved method from any approved method reference.	\$18.00 <del>\$23.00</del> each, up to a maximum of <del>\$390.00</del> <u>\$507.00</u>
e) <del>2</del>	Colorimetric metal testing approved methods. Each colorimetric approved method for which the laboratory applies.	\$45.00 <del>\$59.00</del>
f) <del>2</del>	Mercury cold vapor approved methods.	
i.	Any single mercury cold vapor approved method from any single approved method reference for which the laboratory applies.	\$91.00 <del>\$118.00</del>
ii.	Any combination of mercury cold vapor approved methods from any combination of approved method references for which the laboratory applies.	\$136.00 <del>\$177.00</del>
g) <del>2</del>	Metals by hydride generation approved methods. Each hydride metal for any approved <del>method from</del> <u>method from</u> any approved method reference for which the laboratory applies.	\$45.00 <del>\$59.00</del> each, up to a maximum of <del>\$68.00</del> <u>\$88.00</u>
5. Inorganic Chemistry - Nonmetals		
a) <del>2</del>	Nonmetals Group IA	
i.	<del>Total</del> Alkalinity	\$23.00 <del>\$30.00</del>
ii.	Chloride	23.00 <del>30.00</del>
iii.	Chlorine	23.00 <del>30.00</del>
iv.	Chlorine dioxide	23.00 <del>30.00</del>
v.	Color	23.00 <del>30.00</del>
vi.	Hardness (as <del>CaCO<sub>3</sub></del> <u>CaCO<sub>3</sub></u> )	23.00 <del>30.00</del>
vii.	Hydrogen ion (pH)	23.00 <del>30.00</del>
viii.	Ozone	23.00 <del>30.00</del>
ix.	Specific conductance	23.00 <del>30.00</del>
x.	Total Dissolved Solids (Filterable Residue)	23.00 <del>30.00</del>
xi.	Turbidity	23.00 <del>30.00</del>
b) <del>2</del>	Nonmetals Group IB	
i.	Nitrate	\$45.00 <del>\$59.00</del>
ii.	Sulfate	45.00 <del>59.00</del>
iii.	Fluoride	45.00 <del>59.00</del>
iv.	Sodium Azide	45.00 <del>59.00</del>
v.	Sodium/Potassium Perchlorate	45.00 <del>59.00</del>
c) <del>2</del>	Maximum for any combination of Nonmetals Group IA and IB for the 1st approved method for which the laboratory applies.	\$255.00 <del>\$332.00</del>
d) <del>2</del>	Each additional Nonmetals Group IA approved method for which the laboratory applies.	\$11.00 <del>\$14.00</del>
e) <del>2</del>	Each additional Nonmetals Group IB approved method for which the laboratory applies.	\$23.00 <del>\$30.00</del>
f) <del>2</del>	Nonmetals Group IIA	
i.	Acidity	\$23.00 <del>\$30.00</del>
ii.	Total Hardness	23.00 <del>30.00</del>
iii.	Surfactants	23.00 <del>30.00</del>
iv.	Total Residue	23.00 <del>30.00</del>
v.	Nonfilterable Residue	23.00 <del>30.00</del>
vi.	Settleable Residue	23.00 <del>30.00</del>
vii.	Volatile Residue	23.00 <del>30.00</del>
g) <del>2</del>	Nonmetals Group IIB	
i.	Ammonia	\$45.00 <del>\$59.00</del>
ii.	Bromide	45.00 <del>59.00</del>
iii.	<del>Total</del> Kjeldahl Nitrogen	45.00 <del>59.00</del>

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iv.	Nitrite		45.00	59.00
v.	Orthophosphate		45.00	59.00
vi.	<del>Total</del> Phosphorus		45.00	59.00
h).	Maximum for any combination of Nonmetals Group IIA and IIB for the 1st approved method for which the laboratory applies.		340.00	442.00
i).	Each additional Nonmetals Group IIA approved method for which the laboratory applies.		\$11.00	\$14.00
j).	Each additional Nonmetals Group IIB approved method for which the laboratory applies.		\$23.00	\$30.00
k).	Ion chromatograph approved methods. Each ion for which the laboratory applies using any <del>IC ion chromatograph</del> approved method from any approved method reference.		\$20.00	\$26.00
			each, up to a maximum of \$200.00	\$260.00
6.	Major Analytical Chemistry Instruments			
a.	Each Gas Chromatograph ( <del>GC</del> ) instrument.		\$45.00	\$59.00
b.	Each Gas Chromatograph/Mass Spectrometer ( <del>GC/MS</del> ) instrument.		91.00	\$118.00
c.	Each Atomic Absorption Spectrometer instrument.		45.00	\$59.00
d.	Each Inductively Coupled Plasma Atomic Emission Spectrometer instrument.		45.00	\$59.00
e.	Each Inductively Coupled Plasma Atomic Emission Spectrometer/Mass Spectrometer <del>Instrument instrument</del> .		91.00	\$118.00
f.	Each High Performance Liquid Chromatograph instrument.		45.00	\$59.00
g.	Each High Performance Liquid Chromatograph/Mass Spectrometer instrument.		91.00	\$118.00
h.	Each Ion Chromatograph instrument.		45.00	\$59.00
i.	Each Total Organic Halide ( <del>TOX</del> ) instrument.		45.00	\$59.00
j.	Each Transmission Electron Microscope ( <del>TEM</del> ).		182.00	\$237.00
k.	Each X-Ray Diffraction instrument.			\$59.00
7.	Volatile Organic Chemistry			
	<del>Purgeable Organic GC and GC/MS approved methods.</del>	Single Method		Combination
a.	Volatile Organics by <del>GC</del> by EPA Methods 502.2, 8021A, 8021B	\$91.00	\$118.00	\$136.00
b.	Purgeable Halocarbons by EPA Methods <del>Method 601 and 8010B</del>	45.00	59.00	68.00
c.	Total Trihalomethanes ( <del>THM</del> ) by EPA Methods 502.2, 524.2, <del>551</del> 551.1	45.00	59.00	91.00
	<del>Maximum Trihalomethane Potential (MTP) 510.1</del>			45.00
d.	Purgeable Aromatics by EPA Methods 602, <del>8015A, 8015M, 8020A</del> 8015B	45.00	59.00	91.00
e.	Fuel Class Hydrocarbons by <del>BLS Method 191</del> 8015AZ	45.00	59.00	
	<del>Halogenated and Aromatic Volatiles by EPA Method 8021A</del>		91.00	
f.	Acrolein, Acrylonitrile, <u>and</u> Acetonitrile by EPA Methods 603, 8031, <del>8032</del> 8032A, 8033, 8316	45.00	59.00	68.00
g.	Acrylamide, Acrylonitrile, and Acrolein by EPA Method 8316		59.00	
h.	Purgeables by <del>GC/MS</del> by EPA Methods 524.2, 624, 1624, <del>8260A</del> 8260B	91.00	118.00	181.00
8.	Semivolatile Organic Chemistry			
	<del>Semivolatile organic GC approved methods</del>	Single Method		Combination
a.	Aniline and Derivatives by EPA Method 8131	\$69.00	\$90.00	
b.	Benzidines by EPA Method 605	45.00	59.00	
c.	Benzidines and Nitrogen Pesticides by EPA Method 553	69.00	90.00	
d.	Bis(2-chloroethyl)ether Hydrolysis Products by EPA Method 8430	69.00	90.00	
e.	Carbamates/Urea Pesticides by EPA Methods 531.1, 632, 8318	69.00	90.00	102.00
f.	Carbonyl Compounds by EPA Method <del>8315</del> 8315A	69.00	90.00	
g.	Chlorinated Herbicides by EPA Methods 515.2, 555, <del>8151</del> 8151A, Standard Methods 6640-B, ASTM D-3478-85	69.00	90.00	102.00
h.	Chlorinated Hydrocarbons by EPA Methods 612, 8121	69.00	90.00	102.00

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i.	1,2-Dibromoethane and 1,2-Dibromo-3-Chloropropane by EPA Methods 504.1, <del>551</del> <u>551.1</u> , 8011, BLS Method 127	<del>69.00</del> <u>90.00</u>	<del>102.00</del> <u>133.00</u>
j.	Diquat and Paraquat by EPA Method <del>549.1</del> <u>549.2</u>	<del>69.00</del> <u>90.00</u>	
k.	Endothall by EPA Method 548.1	<del>69.00</del> <u>90.00</u>	
l.	Glyphosate by EPA <del>Method</del> <u>Methods</u> 547, 6651	<del>69.00</del> <u>90.00</u>	<del>102.00</del> <u>133.00</u>
m.	Haloacetic <del>Acetic</del> Acids by EPA <del>Method</del> <u>Methods</u> <del>552 and</del> <u>552.1 and 552.2</u>	<del>69.00</del> <u>90.00</u>	<del>102.00</del> <u>133.00</u>
n.	Haloethers by EPA Methods 611, 8111	<del>69.00</del> <u>90.00</u>	<del>102.00</del> <u>133.00</u>
o.	Nitroaromatics and Cyclic Ketones by EPA Methods 609, 8091, <del>8330</del>	<del>69.00</del> <u>90.00</u>	<del>102.00</del> <u>133.00</u>
p.	<u>Nitroaromatics and Nitramines by EPA Method 8330</u>	<u>90.00</u>	
q.	Nitroglycerine by EPA <u>Method</u> 8332	<del>69.00</del> <u>90.00</u>	
r.	Nitrosamines by EPA Methods 607, <del>8070, 8330</del> <u>8070A</u>	<del>69.00</del> <u>90.00</u>	<del>102.00</del> <u>133.00</u>
s.	Nonvolatiles by <del>HPLC/MS</del> by EPA <u>Methods</u> <del>8324</del> <u>8321A, 8325</u>	<del>91.00</del> <u>118.00</u>	<del>136.00</del> <u>177.00</u>
t.	Organochlorine Pesticides/Polychlorinated Biphenyls by EPA Methods 505, 508, 508.1, 608, 8081, 8082, Standard Method 6630C, ASTM Method D3086-85, EPA-600/4-81-045	<del>91.00</del> <u>118.00</u>	<del>136.00</del> <u>177.00</u>
u.	Organophosphorus and Nitrogen Pesticides by EPA Methods 507, 614, <del>1657</del> , <u>8141A</u>	<del>69.00</del> <u>90.00</u>	<del>102.00</del> <u>133.00</u>
v.	Phenols by EPA Methods 604, <del>8041A</del> <u>8041</u>	<del>69.00</del> <u>90.00</u>	<del>102.00</del> <u>133.00</u>
w.	Polynuclear Aromatic Hydrocarbons by EPA Methods 550, 550.1, 610, 8100, 8310	<del>69.00</del> <u>90.00</u>	<del>102.00</del> <u>133.00</u>
	<del>Polynuclear Aromatic Hydrocarbons by EPA Method 8310</del>	<del>69.00</del>	
x.	Phthalate Esters by EPA Methods; <del>506, 606, 8061</del> <u>8061A, 506</u>	<del>69.00</del> <u>90.00</u>	<del>102.00</del> <u>133.00</u>
y.	Semivolatile <del>organic organics GC/MS approved methods</del> by EPA Methods 525.2, 625, 1625, <del>8270B</del> <u>8270C</u>	<del>91.00</del> <u>118.00</u>	<del>182.00</del> <u>237.00</u>
z.	Semivolatile organics <del>GC/FT-IR</del> by EPA <u>Method</u> 8410	<del>69.00</del> <u>90.00</u>	
aa.	Tetrazine by EPA <u>Method</u> 8331	<del>69.00</del> <u>90.00</u>	
bb.	Triazine Pesticides by EPA Method 619	<del>69.00</del> <u>90.00</u>	
cc.	Dioxin and Furans by EPA Methods <del>613, 1613, 613, 8280</del> <u>8280A, 8290,</u> <del>Director approved GC methods</del>	<del>272.00</del> <u>354.00</u>	<del>362.00</del> <u>471.00</u>
	<del>Director approved GC/MS methods</del>	<del>69.00</del>	
		<del>91.00</del>	
9.	Radiochemicals		
a.	Fee for radiochemistry testing		<del>\$270.00</del> <u>\$351.00</u>
b.	Each radioisotope counting instrument		<del>45.00</del> <u>59.00</u>
c.	Gross Alpha Activity		<del>91.00</del> <u>118.00</u>
d.	Gross Beta Activity		<del>91.00</del> <u>118.00</u>
e.	Radium-226		<del>91.00</del> <u>118.00</u>
f.	Radium-228		<del>91.00</del> <u>118.00</u>
g.	Cesium- <del>134</del>		<del>91.00</del> <u>118.00</u>
h.	Iodine- <del>131</del>		<del>91.00</del> <u>118.00</u>
i.	Polonium-210		<del>91.00</del> <u>118.00</u>
j.	Radon-222		<del>91.00</del> <u>118.00</u>
k.	Strontium-89		<del>91.00</del> <u>118.00</u>
l.	Strontium-90		<del>91.00</del> <u>118.00</u>
m.	Tritium		<del>91.00</del> <u>118.00</u>
n.	Uranium		<del>91.00</del> <u>118.00</u>
o.	Photon Emitters, each method		<del>91.00</del> <u>118.00</u>
p.	Each radiochemical approved method when the laboratory applies for 5 or more.		<del>73.00</del> <u>95.00</u>
10.	Hazardous Characteristic Testing Approved Methods		
a.	Corrosivity toward steel		<del>\$38.00</del> <u>\$49.00</u>
b.	Ignitability		<del>38.00</del> <u>49.00</u>
c.	Reactivity		<del>38.00</del> <u>49.00</u>
d.	Extraction Procedure Toxicity Characteristic*		<del>91.00</del> <u>118.00</u>
e.	Toxicity Characteristic Leaching Procedure*		<del>181.00</del> <u>235.00</u>
f.	Synthetic Characteristic Leaching Procedure*		<del>181.00</del> <u>235.00</u>

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\*(The ~~fee~~ fees for these procedures are for the sample extraction and leaching processes only.)

11. Miscellaneous Compliance Testing		
a. Total Organic Carbon		\$ <del>45.00</del> <u>\$59.00</u>
b. Total Organic Halides		<del>45.00</del> <u>59.00</u>
c. Purgeable Organic Halides		<del>68.00</del> <u>88.00</u>
d. Extractable Organic Halides		<del>68.00</del> <u>88.00</u>
e. Ethylene Glycol		<del>91.00</del> <u>118.00</u>
f. Total Petroleum Hydrocarbon		<del>91.00</del> <u>118.00</u>
g. Oil and Grease		<del>45.00</del> <u>59.00</u>
h. Cyanide; total, direct, and amenable to chlorination		<del>91.00</del> <u>118.00</u>
i. Total Phenols		<del>91.00</del> <u>118.00</u>
j. Lead in paint		<del>23.00</del> <u>30.00</u>
k. Magnesium - gravimetric		<del>23.00</del> <u>30.00</u>
l. Sulfide		<del>45.00</del> <u>59.00</u>
m. Sulfite		<del>45.00</del> <u>59.00</u>
n. Silica		<del>45.00</del> <u>59.00</u>
o. Bulk Asbestos Identification		<del>136.00</del> <u>177.00</u>
p. White Phosphorous		<del>69.00</del> <u>90.00</u>
q. <del>Immunoassay Tests (each)</del> <u>Each Immunoassay Test</u>		<del>45.00</del> <u>59.00</u>
r. Compatibility Test for Wastes and Membrane Liners		<del>20.00</del> <u>26.00</u>
s. Cation-Exchange Capacity of Soil		<del>20.00</del> <u>26.00</u>
<del>Director approved methods</del>		<del>20.00</del>
t. Asbestos fiber counting by:		
i. Light microscopy		<del>136.00</del> <u>177.00</u>
ii. Electron microscopy		<del>227.00</del> <u>295.00</u>
iii. <del>Electron Microscopy</del> <u>microscopy</u> with X-Ray Diffraction		<del>300.00</del> <u>390.00</u>
12. Ambient Air Compliance Testing Approved Methods		
a. Carbon Monoxide		\$ <del>181.00</del> <u>\$235.00</u>
b. Hydrocarbons		<del>181.00</del> <u>235.00</u>
c. Lead		<del>181.00</del> <u>235.00</u>
d. Nitrogen Dioxide		<del>181.00</del> <u>235.00</u>
e. Ozone		<del>181.00</del> <u>235.00</u>
f. Particulate Matter		<del>181.00</del> <u>235.00</u>
g. Sulfur Oxides		<del>181.00</del> <u>235.00</u>
h. Maximum for ambient air testing-		<del>952.00</del> <u>1,238.00</u>
13. Air - Stationary Sources and Stack Testing Approved Methods		
a. Carbon Dioxide/Oxygen/Excess Air		\$ <del>181.00</del> <u>\$235.00</u>
b. Carbon Monoxide		<del>181.00</del> <u>235.00</u>
c. Carbonyl Sulfide/Carbon Dioxide		<del>181.00</del> <u>235.00</u>
d. Fluoride		<del>181.00</del> <u>235.00</u>
e. Gaseous Organic Compounds		<del>181.00</del> <u>235.00</u>
f. Hydrogen Sulfide		<del>181.00</del> <u>235.00</u>
g. Inorganic Lead		<del>181.00</del> <u>235.00</u>
h. Moisture Content		<del>181.00</del> <u>235.00</u>
i. Nitrogen Oxide		<del>181.00</del> <u>235.00</u>
j. Particulate Emissions:		
i. Asphalt Processing		<del>91.00</del> <u>118.00</u>
ii. Fiberglass Insulation		<del>91.00</del> <u>118.00</u>
iii. Nonsulfate		<del>91.00</del> <u>118.00</u>
iv. Nonsulfuric Acid		<del>91.00</del> <u>118.00</u>
v. Pressure Filters		<del>91.00</del> <u>118.00</u>
vi. Stationary Sources		<del>91.00</del> <u>118.00</u>
vii. Sulfur Dioxide		<del>91.00</del> <u>118.00</u>
viii. Wood Heaters		<del>91.00</del> <u>118.00</u>
ix. Particulate emissions maximum		<del>544.00</del> <u>707.00</u>
k. Sulfur and Total Reduced Sulfur		<del>181.00</del> <u>235.00</u>
l. Sulfur Dioxide		<del>181.00</del> <u>235.00</u>
m. Sulfuric Acid Mist		<del>181.00</del> <u>235.00</u>
n. <u>Toxic Organic Compounds in Ambient Air by Method TO-15</u>		<u>118.00</u>

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- |    |  |                                     |
|----|--|-------------------------------------|
| o. | Volatile Matter/Density/Solids/Water         | <del>181.00</del> <u>235.00</u>     |
| p. | Vapor Tightness - Gasoline Delivery Tank     | <del>181.00</del> <u>235.00</u>     |
| q. | Volatile Organic Compounds                   | <del>181.00</del> <u>235.00</u>     |
| r. | Wood Heaters Certification and Burn Rates    | <del>181.00</del> <u>235.00</u>     |
| s. | Stationary Sources and Stack Testing maximum | <del>2,720.00</del> <u>3,536.00</u> |
| t. | <u>Petroleum product analysis:</u>           |                                     |
|    | i. <u>Hydrometer method</u>                  | <u>59.00</u>                        |
|    | ii. <u>Sulfur</u>                            | <u>118.00</u>                       |
|    | iii. <u>Heat of Combustion</u>               | <u>59.00</u>                        |
14. Arizona Emission Test Approved Methods ~~Particulate Emissions:~~
- |    |                                  |                                     |
|----|----------------------------------|-------------------------------------|
| a. | Sulfuric Acid Mist/Sulfur Oxides | <del>\$181.00</del> <u>\$235.00</u> |
| b. | Dry Matter                       | <del>181.00</del> <u>235.00</u>     |
15. Hazardous Air Pollutant Approved Methods ~~For~~ for National Emission Standards
- |    |                                      |                                     |
|----|--------------------------------------|-------------------------------------|
| a. | Arsenic                              | <del>\$181.00</del> <u>\$235.00</u> |
| b. | Beryllium                            | <del>181.00</del> <u>235.00</u>     |
| c. | Mercury                              | <del>181.00</del> <u>235.00</u>     |
| d. | Polonium-210                         | <del>181.00</del> <u>235.00</u>     |
| e. | Vinyl Chloride                       | <del>181.00</del> <u>235.00</u>     |
| f. | Maximum for hazardous air pollutants | <del>680.00</del> <u>884.00</u>     |
16. When an alternate method is a revision of a method listed in A.A.C. R9-14-611 through A.A.C. R9-14-614, the fee is the same as for the listed method, unless the technology of the alternate method is different from that of the listed method. All other alternate method fees are charged as follows:
- |    |  |                |
|----|--|----------------|
| a. | <u>Alternate Gas Chromatography method</u>                   | <u>\$90.00</u> |
| b. | <u>Alternate Gas Chromatography/Mass Spectrometry method</u> | <u>118.00</u>  |
| c. | <u>Alternate miscellaneous method</u>                        | <u>58.00</u>   |
- D. ~~The laboratory An applicant shall pay submit to the Department a nonrefundable, except as required by A.R.S. §41-1077, handling non-refundable administrative fee of \$78.00 \$101.00 for each all proficiency evaluation audit audits to occur during the license period and the actual cost for proficiency evaluation audit materials, if applicable.~~
- E. An applicant for an out-of-state laboratory shall submit to the Department an annual fee of \$98.00 if the applicant chooses to receive technical updates from the Department by facsimile transmission.
- EE. ~~Except for the appointment of an acting laboratory director, a change in the laboratory name, directorship, or ownership a laboratory which A licensee that requests an amendment or modification to its to change its license by adding a parameter to the license before its expiration date; shall pay all applicable licensure licensing fees. Laboratories A licensee shall have 3 free modifications to may delete parameters at no charge 3 times during a licensure license period. Thereafter, each additional deletion shall be charged at a rate of \$10.00 the Department shall charge \$13.00 per parameter for processing each deletion.~~
- F. ~~Each out-of-state licensed laboratory shall pay an annual fee of \$75.00 if the laboratory chooses to receive technical updates from the Department by FAX.~~

**R9-14-608. Payment of Fees**

- A.** Upon receipt of a license application, the Department calculates the amount owed by the applicant by adding together the following:
- The fees for the methods and instruments for which licensure is requested on the application, as provided in A.A.C. R9-14-607(C);
  - The proficiency evaluation audit fee, as provided in A.A.C. R9-14-607(D); and
  - The technical update fee, as provided in A.A.C. R9-14-607(E), if the applicant is applying for an out-of-state laboratory and has requested to receive technical updates from the Department by facsimile transmission.
- B.** If a laboratory is owned by a small business, the applicant may submit the amount calculated under subsection (A) to the Department in 12 equal installments, with the 1st installment billed by the Department as described in subsection (C) and an installment due on the 1st day of each month for 11 months thereafter.
- C.** After calculating the total fee as described in subsection (A), the Department shall send the applicant a notice of administrative deficiencies and a bill showing the following amount due:
- If the laboratory is owned by a small business, the amount of the 1st installment; or
  - If the laboratory is not owned by a small business, the total amount calculated under subsection (A).
- D.** If an applicant or licensee for a laboratory owned by a small business fails to submit an installment within 7 days from its due date, the Department shall charge a \$20.00 fee for processing the late payment. If an applicant or licensee for a laboratory owned by a small business fails to submit an installment within 30 days from its due date, the Department may initiate action under A.R.S. § 36-495.09.

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**~~R9-14-607.~~ R9-14-609. Proficiency Evaluation**

- A.** ~~Each~~ Once in each 12-month period, or more often if requested by the Department, each laboratory shall demonstrate proficiency as determined by the Department through proficiency evaluation audits ~~by participating in a proficiency evaluation audit~~ provided by the Principal State Laboratory System, if available, or a proficiency evaluation service provider approved by the Department. The laboratory shall analyze ~~and report~~ proficiency evaluation ~~audit~~ samples for the testing program, category of testing, each parameter, and approved methods for which an initial license or renewal license has been issued or requested and for which proficiency evaluation samples are available. ~~Proficiency evaluation parameters reported by the~~ For a laboratory for subsections (B) through (G) of this Section to demonstrate proficiency for a parameter, test results reported by the laboratory for the parameter shall be within acceptance limits criteria established by the Principal State Laboratory System or proficiency evaluation service or in addition for subsection (B) as required by 40 CFR §§ 141.24, f.17.
- B.** ~~1.~~ 1. To maintain ~~licensure~~ a license for the ~~approved~~ methods listed for chemistry in ~~R9-14-609 A.A.C. R9-14-611,~~ R9-14-611, the a laboratory shall demonstrate ~~continued~~ proficiency through ~~audits provided as described in subsection (A)~~ audits provided as described in subsection (A) by participating, every 12 months, in a the EPA's water supply study (WS) audit program, the Principal State Laboratory System proficiency evaluation audit program, if available, or a proficiency evaluation service accepted by the Department as required by the EPA under the Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26.
- C.** ~~2.~~ 2. To maintain ~~licensure~~ a license for the ~~approved~~ methods listed for chemistry in ~~R9-14-610 and R9-14-611 A.A.C. R9-14-612 and R9-14-613,~~ R9-14-612 and R9-14-613, the a laboratory shall demonstrate ~~continued~~ proficiency through ~~audits provided as described in subsection (A)~~ audits provided as described in subsection (A) by participating, every 12 months, in a the EPA's water pollution (WP) proficiency evaluation audit program, the Principal State Laboratory System proficiency evaluation audit program, if available, or a proficiency evaluation service accepted by the Department as required by the EPA under the Clean Water Act, 33 U.S.C. §§ 1251-1387.
- D.** ~~To maintain licensure for the approved methods listed for microbiology in R9-14-609 through R9-14-611, the laboratory shall demonstrate continued proficiency through audits provided by the EPA's proficiency evaluation audit program, the Principal State Laboratory System proficiency evaluation audit program, if available, or a proficiency evaluation service accepted by the Department.~~
- E.** ~~To maintain licensure for the approved methods listed for radiochemicals in R9-14-609 through R9-14-611, the laboratory shall demonstrate continued proficiency through audits provided by the EPA's radiation assessment proficiency evaluation audit and the Interecomparison studies audit programs.~~
- F.** ~~To maintain licensure for the approved methods listed in R9-14-612, the laboratory shall demonstrate continued proficiency through audits provided by the EPA proficiency evaluation audit program, the Principal State Laboratory System proficiency evaluation audit program, if available, or from a proficiency evaluation service accepted by the Department.~~
- B.** A laboratory analyst shall test each proficiency evaluation sample within the holding times required for its parameter and shall use the same procedures and techniques employed for routine sample testing.
- C.** The proficiency evaluation service shall provide the evaluation results directly to the Department.
- G.D.** The Department may submit blind proficiency evaluation audit samples to a licensed laboratory at any time during the license period.
- H.** ~~The laboratory shall test all proficiency evaluation audit samples within holding times required by the approved method for each of the audit parameters and report the results to the proficiency evaluation service. Principal State Laboratory System chemistry proficiency evaluation audit sample results shall be reported to the Department within 2 months from the time of receipt. Principal State Laboratory System microbiology proficiency evaluation audit sample results shall be reported to the Department within 2 weeks from the time of receipt.~~
- I.** ~~The Department shall issue a report of Principal State Laboratory System proficiency evaluation audit findings to the laboratory within 2 months of the deadline date for results of the proficiency evaluation audit.~~
- E.** If a proficiency evaluation audit is provided by the Principal State Laboratory System, a licensee or an applicant shall submit to the Department payment for the actual costs of the proficiency evaluation audit materials.
- F.** If a proficiency evaluation audit is not provided by the Principal State Laboratory System, a licensee or an applicant shall select a proficiency evaluation service from a list provided by the Department. A licensee or an applicant shall contract with and pay the proficiency evaluation service directly for a proficiency evaluation audit.

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**~~R9-14-608~~ R9-14-610. Approved Methods and References**

- A.** All compliance samples shall be tested by approved methods and the results shall be validated by reference to the applicable quality assurance requirements listed in the following Key References; or in R9-14-609 through R9-14-612 as appropriate to the sample matrix, and/or as specifically required by ADEQ or EPA. A licensee shall ensure that compliance testing is performed according to an approved method or an alternate method and may use method alterations approved by the Director under subsection (B). The approved methods listed by parameter in A.A.C. R9-14-611 through R9-14-614 are found in the following references, which are incorporated by reference with the modifications described below and are on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. The references published by the EPA, the U.S. Department of Energy, the U.S. Department of Health and Human Services, and the U.S. Department of the Interior are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. The other references are available as provided below.
- B.** If approved methods are not available for a particular testing program, category of testing or parameter, and different methods are required by EPA or ADEQ, a lab may use another method if the method is approved by the Director.
1. For existing methods which are not approved methods under this Article, a laboratory may submit a petition to the Department requesting approval. The petition shall include reference to the EPA or ADEQ statute or rule which requires the use of the different method.
  2. A laboratory may submit a petition to the Department requesting the approval of a recommended or locally developed procedure.
    - a) The petition shall contain:
      - i) Name, telephone number, and address of the person submitting the petition;
      - ii) Identification of the pollutant or parameter for which approval of a recommended or locally developed procedure is being requested;
      - iii) Written justification for using the recommended or locally developed procedure including a detailed description of the recommended or locally developed procedure, together with references to published or other studies confirming the general applicability of the recommended or locally developed procedure to the type of sample matrix for which its use is intended, and reference to the EPA or ADEQ requirement to use a recommended or locally developed procedure; and
      - iv) Data which demonstrates the performance of the recommended or locally developed procedure in terms of accuracy, precision, reliability, ruggedness, ease of use and ability to achieve a detection limit appropriate for the proposed use of the method.
    - b) The Department may approve a recommended or locally developed procedure if it determines that the criteria listed in R9-14-608(2)(a)(iv) have been demonstrated.
    - e) The Department may require that the recommended or locally developed procedure be tested in parallel with a reference laboratory for precision and accuracy.
- C.** The following references identified by a capital letter under the heading "Key" contain the approved methods which are listed by parameter in R9-14-609 through R9-14-612. The following approved methods are incorporated by reference and on file with the Office of the Secretary of State and the Department. This incorporation by reference contains no future editions or amendments:

Key	Reference
A	<u>"Methods for Chemical Analysis of Water and Wastes," Environmental Monitoring and Support Laboratory-Cincinnati, EPA, Pub. No. EPA-600/4-79-020, Methods for Chemical Analysis of Water and Wastes EPA, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio, (revised rev. March 1983).</u>
A1	<u>"Methods for the Determination of Metals in Environmental Samples Supplement 1", Environmental Monitoring and Support Laboratory-Cincinnati, EPA, Pub. No. EPA-600/R-94-111 EPA/600/R-94/111, Methods for the Determination of Metals in Environmental Samples: Supplement I, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio, (May 1994).</u>
A2	<u>"Methods for the Determination of Inorganic Substances in Environmental Samples", Environmental Monitoring Systems Laboratory, EPA, Pub. No. EPA-600/R-93-100, EPA/600/R-93/100, Methods for the Determination of Inorganic Substances in Environmental Samples (August 1993), modified to increase the maximum holding time from 48 hours to 14 days at 4° C. for chlorinated, unacidified drinking water samples collected for determination of nitrate.</u>
A3	<u>Technicon Industrial Systems, Industrial Method No. 380-75WE, Fluoride in Water and Wastewater (July 1977), available from Bran &amp; Luebbe Analyzing Inc., 1025 Busch Parkway, Buffalo Grove, IL 60089.</u>
A4	<u>Office of Water, EPA, Pub. No. EPA-821-R-99-005, Method 1631, Revision B: Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence Spectrometry (May 1999).</u>
B	<u>"Interim Radiochemical Methodology for Drinking Water," Herman L. Krieger, EPA, Pub. No. EPA-600/4-75-008, EPA, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio, revised Interim Radiochemical Methodology for Drinking Water (March 1976).</u>

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- C “Standard Methods for the Examination of Water and Wastewater,” APHA AWWA-WPCF, Washington, D.C.; American Public Health Association et al., Standard Methods for the Examination of Water and Wastewater (19th Edition, ed. 1995), available from American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.
- C1 “Hach Handbook of Water Analysis,” 1979, Hach Chemical Company, Loveland, CO 80537 Hach Water Analysis Handbook (3rd ed. 1997), available from Hach Company, P.O. Box 389, Loveland, CO 80539-0389.
- C2 “Iron, 1,10-Phenanthroline Method,” Method 8008, 1980, Hach Chemical Company, P.O. Box 389, Loveland, CO 80537.
- D “Methods for the Determination of Organic Compounds in Drinking Water,” Environmental Monitoring Systems Laboratory-Cincinnati, EPA, Pub. No. EPA/600/4-88/039, Methods for the Determination of Organic Compounds in Drinking Water EPA, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio; (rev. July 1991).
- D1 “Methods for the Determination of Organic Compounds in Drinking Water, Supplement I,” Environmental Monitoring Systems Laboratory-Cincinnati, EPA, Pub. No. EPA/600/4-90/020, EPA, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio; Methods for the Determination of Organic Compounds in Drinking Water: Supplement I (July 1990).
- D2 “Methods for the Determination of Organic Compounds in Drinking Water, Supplement II,” Environmental Monitoring Systems Laboratory-Cincinnati, EPA, Pub. No. EPA/600/R-92/129, EPA, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio; Methods for the Determination of Organic Compounds in Drinking Water: Supplement II (August 1992).
- D3 National Exposure Research Laboratory-Cincinnati, EPA, Pub. No. EPA/600/R-95/131, Methods for the Determination of Organic Compounds in Drinking Water: Supplement III (August 1995).
- ~~D3~~D4 “Manual for the Certification of Laboratories Analyzing Drinking Water, 4th Edition,” Office of Ground Water and Drinking Water Technical Support Center, EPA, Pub. No. EPA 570/9-90/008 815-B-97-001, Manual for the Certification of Laboratories Analyzing Drinking Water: Criteria and Procedures Quality Assurance EPA, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio, April 1990, and updated September 1992 and (4th ed. March 1997).
- ~~D4~~ “The Determination of the Maximum Total Trihalomethane Potential,” Method 510.1, EMSL, EPA, Cincinnati, Ohio 45268.
- D5 “Tetra through Octa-Chlorinated Dioxins and Furans by Isotope Dilution HRGC/HRMS,” EPA-821-B-94-005, October 1994. J.W. Munch and W.J. Bashe, EPA, Method 549.2: Determination of Diquat and Paraquat in Drinking Water by Liquid-Solid Extraction and High Performance Liquid Chromatography with Ultraviolet Detection (rev. 1 June 1997).
- D6 Anne M. Pawlecki-Vonderheide and David J. Munch, EPA, Method 515.3: Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Extraction, Derivatization and Gas Chromatography with Electron Capture Detection (rev. 1 July 1996).
- E “Appendix A To Part 136 – Methods for Organic Chemical Analysis of Municipal and Industrial Wastewater,” 40 CFR Part 136 app. A, 1996 (1998).
- E1 “Appendix C to Part 136 – Inductively Coupled Plasma – Atomic Emission Spectrometric Method for Trace Element Analysis of Water and Wastes, Method 200.7,” 40 CFR Part 136, 1996. Office of Water Engineering and Analysis Division, EPA, Pub. No. EPA-821-R-93-010-A, Methods for the Determination of Non-conventional Pesticides in Municipal and Industrial Wastewater: Volume I (rev. 1 August 1993).
- F “Test Methods for Evaluating Solid Waste,” EPA SW-846, 3rd Edition, EPA, Office of Solid Waste and Emergency Response, Washington, D.C., September EPA, Pub. No. SW-846. Test Methods for Evaluating Solid Waste (3rd ed. 1986 & Update I, July 1992; Update IIA, August 1993; Update II, September 1994; Update IIB, January 1995; Update III, December 1996), and updated September 1994.
- F1 “PCB’s in Transformer Oil/Waste Oil,” Thomas A. Bellar and James J. Lichtenberg, EPA, Pub. No. EPA-600/4-81-045, The Determination of Polychlorinated Biphenyls in Transformer Fluid and Waste Oils (September 1982).
- G “National Institute for Occupational Safety and Health Manual of Analytical Methods,” U.S. Department of Health and Human Services, Pub. No. 84-100, NIOSH Manual of Analytical Methods: Volume I, Cincinnati, Ohio, 3rd Edition, (3rd ed. February 1984), updated May 1985, August 1987, and May 1989.
- H “Interim Method for Determination of Asbestos in Bulk Insulation Samples,” Environmental Monitoring Systems Laboratory-Research Triangle Park, EPA, Pub. No. EPA-600/4-82-020 EPA-600/M4-82-020, Interim Method for the Determination of Asbestos in Bulk Insulation Samples EPA, Environmental Monitoring Systems Laboratory, Research Triangle Park, North Carolina; (March December 1982).

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- H1 ~~“Analytical Method for Determination of Asbestos Fibers in Water,” Eric J. Chatfield and M. Jane Dillon, EPA, Pub. No. EPA/600/4-83-043 EPA-600/4-83-043, Analytical Method for Determination of Asbestos Fibers in Water EPA, Environmental Research Laboratory, Athens, GA, (September 1983).~~
- H2 ~~Kim A. Brackett et al., EPA, Pub. No. EPA/600/R-94/134, Method 100.2: Determination of Asbestos Structures over 10 µm in Length in Drinking Water (June 1994).~~
- I ~~“Annual Book of ASTM Standards,” ASTM, Annual Book of ASTM Standards, Volume Vols. 11.01 and 11.02, Water and Environmental Technology, American Society for Testing and Materials, Philadelphia, Pennsylvania (1995), available from ASTM, 1916 Race Street, Philadelphia, PA 19103-1187.~~
- J ~~“Methods for Determination of Inorganic Substances in Water and Fluvial Sediments”, U.S. Department of Interior, U.S. Geological Survey, U.S. Department of the Interior, “Methods for Determination of Inorganic Substances in Water and Fluvial Sediments,” published in Techniques of Water-Resources Investigations of the United States Geological Survey at bk. 5, ch. A1 Washington, D.C., 3rd Edition (3rd ed. 1989).~~
- J1 ~~L.L. Thatcher et al., U.S. Department of the Interior, “Methods for Determination of Radioactive Substances in Water and Fluvial Sediments.” published in Techniques of Water-Resources Investigations of the United States Geological Survey at bk. 5, ch. A5 (3rd ed. 1989).~~
- K ~~Test Methods for the Determination of: “Ethylene Dibromide and Dibromochloropropane in Water,” BLS-127, revised June 1990; “TPH in Soil,” 418.1AZ, revised Bureau of State Laboratory Services, Arizona Department of Health Services, Method 418.1AZ: TPH in Soil (September 7, 1994); “Ethylene Glycol in “Wastewater,” BLS-188, revised April 1990 Division of State Laboratory Services, Arizona Department of Health Services, Method No. BLS-188, Ethylene Glycol in Waste Water (rev. April 1991); and “Quantitation of Fuel-Class Hydrocarbons by GC,” BLS-191, issued September 1991 Bureau of State Laboratory Services, Arizona Department of Health Services, C<sub>10</sub> - C<sub>32</sub> Hydrocarbons in Soil - 8015AZ (rev. 1.0 September 1998), Department of Health Services, Division available from the Bureau of State Laboratory Services, 1520 W. Adams Street, Phoenix, Arizona AZ 85007-2698.~~
- K1 ~~Office of Water, EPA, Pub. No. EPA-821-R-98-002, Method 1664, Revision A: N-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated N-Hexane Extractable Material (SGT-HEM; Non-polar Material) by Extraction and Gravimetry (February 1999).~~
- K2 ~~Office of Water, EPA, Pub. No. EPA-821-B-98-016, Analytical Methods for the Determination of Pollutants in Pharmaceutical Manufacturing Industry Wastewater (July 1998).~~
- L ~~“Prescribed Procedures for Measurement of Radioactivity in Drinking Water,” Herman L. Krieger and Earl L. Whittaker, EPA, Pub. No. EPA-600/4-80-032, Prescribed Procedures for Measurement of Radioactivity in Drinking Water EPA, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio, (August 1980).~~
- M ~~Environmental Monitoring Systems Laboratory–Cincinnati, EPA, Pub. No. EPA/600/4-90/027, Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms (4th ed. September 1991).~~
- M1 ~~Environmental Monitoring Systems Laboratory–Cincinnati, EPA, Pub. No. EPA/600/4-90/027F, Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms (4th ed. August 1993).~~
- N ~~Cornelius I. Weber et al., EPA, Pub. No. EPA/600/4-89/001, Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms (2nd ed. March 1989); and Environmental Monitoring and Support Laboratory–Cincinnati, EPA, Pub. No. EPA/600/4-89/001a, Supplement to “Short-term Methods for Estimating the Chronic Toxicity of Effluents and Surface Waters to Freshwater Organisms,” (EPA/600/4-89/001) (rev. 1 September 1989).~~
- N1 ~~Environmental Monitoring Systems Laboratory–Cincinnati, EPA, Pub. No. EPA-600-4-91-002, Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms (3rd ed. July 1994).~~
- O ~~“National Primary and Secondary Ambient Air Quality Standards,” 40 CFR Part 50, Subchapter C, (1995).~~
- P ~~“USEPA Manual of Methods for Virology,” Gerald Berg et al., EPA, Pub. No. EPA-600/4-84/013 EPA-600/4-84-013, USEPA Manual of Methods for Virology EPA, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio, (February 1984).~~
- P1 ~~Jay Vasconcelos and Stephanie Harris, EPA, Pub. No. EPA 910/9-92-029, Consensus Method for Determining Groundwaters Under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA) (October 1992).~~
- P2 ~~G. Shay Fout et al., EPA, Pub. No. EPA/600/R-95/178, ICR Microbial Laboratory Manual (April 1996).~~
- P3 ~~Charles P. Gerba, University of Arizona, UofA2000: Ascaris lumbricoides in Water (1999), available from the University of Arizona, Microbial Analytical Laboratory, Building No. 90, Rm. 406, Tucson, AZ 85721.~~
- Q ~~“Standards of Performance For New Stationary Sources, Appendix A – Test Methods,” 40 CFR Part 60, Appendix app. A; (1995).~~

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- R “Arizona Testing Manual For Air Pollutant Emissions,” Arizona Office of Air Quality, ADEQ, Arizona Testing Manual for Air Pollutant Emissions Phoenix, Arizona, (rev. F March 1992, Revision F), available from the Office of Air Quality, ADEQ, 3033 N. Central Avenue, Phoenix, AZ 85012.
- S “National Emission Standards for Hazardous Air Pollutants, Appendix B Test Methods and Appendix C Quality Assurance Procedures,” 40 CFR Part 61, Appendix apps. B and C; (1995).
- S1 Center for Environmental Research Information, EPA, Pub. No. EPA/625/R-96/010b, Compendium Method TO-15: Determination of Volatile Organic Compounds (VOCs) in Air Collected in Specially-Prepared Canisters and Analyzed by Gas Chromatography/Mass Spectrometry (GC/MS) (January 1997).
- T Broadway, Susan Broadway et al., “Final Report of Equivalency Testing for Colisure,” Montana State University, Bozeman, MT, Final Report of Equivalency Testing for Colisure (September 29, 1992), available from Millipore Corp. Technical Services Department, 80 Ashby Road, Bedford, MA 01730.
- U “National Primary Drinking Water Regulations,” 40 CFR Part 141, Subpart C, Appendix C, 1994.
- V “The Determination of Inorganic Anions in Water by Ion Chromatography,” EPA 600/4-84-017, EPA, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio, August 1991.
- WU Environmental Measurements Laboratory (EML) Procedures Manual, HASL-300, Vol. 1, U.S. Department of Energy, Pub. No. HASL-300, EML Procedures Manual, Vol. I 27th Edition, 1990, New York, N.Y. (27th ed. rev. February 1992).
- XV Radiochemistry Procedures Manual, Eastern Environmental Radiation Facility (EERF) EPA Montgomery, EPA, Pub. No. EPA 520/5-84/006 520/5-84-006, Montgomery, AL, Eastern Environmental Radiation Facility Radiochemistry Procedures Manual (August 1984 2nd prtg. 1988).
- YW Radiochemical Analytical Procedures for Analysis of Environmental Samples, EPA, Environmental Monitoring and Support Laboratory (EMSL), EMSL-LV0539-17, Las Vegas, NV, Las Vegas, EPA, Pub. No. EMSL-LV-0539-17, Radiochemical Analytical Procedures for Analysis of Environmental Samples (March 1979).
- ZX “Test Methods for Escherichia coli in Drinking Water, EC Medium with Mug Tube Procedure, Nutrient Agar with Mug Membrane Filter Procedure,” Office of Ground Water and Drinking Water, EPA, Pub. No. EPA/600/4-91/016, Test Methods for Escherichia Coli in Drinking Water: EC Medium with Mug Tube Procedure, Nutrient Agar with Mug Membrane Filter Procedure EPA, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio; (July 1991).
- X1 Bureau of Radiation and Inorganic Analytical Services, New Jersey Department of Environmental Protection, Determination of Ra-228 in Drinking Water (August 1990), available from New Jersey Department of Environmental Protection, Division of Environmental Quality, Bureau of Radiation and Inorganic Analytical Services, 9 Ewing Street, Trenton, NJ 08625.
- Y Office of Water, EPA, Pub. No. EPA/821/R-99/013, Method OIA-1677: Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry (January 2000).
- B.** If an approved method or existing alternate method is not available for a particular parameter, or a different method or method alteration is required or authorized by an EPA or ADEQ statute or rule, a licensee may petition the Department for approval of a new alternate method or method alteration.
1. For a method or method alteration required or authorized by an EPA or ADEQ statute or rule, the petition shall include:
    - a. The name, address, and telephone number of the licensee submitting the petition;
    - b. The name, address, and telephone number of the laboratory for which approval of the method or method alteration is requested;
    - c. Identification of the parameter for which approval of the method or method alteration is requested; and
    - d. Reference to the EPA or ADEQ statute or rule that requires or authorizes the use of the method or method alteration for which approval is requested.

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2. For a method or method alteration that is not required or authorized by an EPA or ADEQ statute or rule, the petition shall include:
  - a. The name, address, and telephone number of the licensee submitting the petition;
  - b. The name, address, and telephone number of the laboratory for which approval of the method or method alteration is requested;
  - c. Identification of the parameter for which approval of the method or method alteration is requested; and
  - d. Written justification for using the method or method alteration for which approval is requested, including the following:
    - i. A detailed description of the method or method alteration;
    - ii. References to published or other studies confirming the general applicability of the method or method alteration to the parameter for which its use is intended;
    - iii. Reference to the EPA or ADEQ requirement to test the parameter; and
    - iv. Data that demonstrate the performance of the method or method alteration in terms of accuracy, precision, reliability, ruggedness, ease of use, and ability to achieve a detection limit appropriate for the proposed use of the method or method alteration.
3. Before approving a new alternate method or method alteration that is not required or authorized by an EPA or ADEQ statute or rule, the Department may require that the method or method alteration be performed by a laboratory designated by the Department to verify that, using the parameter for which its use is intended, the method or method alteration produces data that comply with subsection (B)(2)(d)(iv).
4. The Department may approve a new alternate method or method alteration that is not required or authorized by an EPA or ADEQ statute or rule if the Department determines that use of the method or method alteration is justified as described in subsection (B)(2)(d).

**R9-14-609 R9-14-611. Drinking Water Sample Matrix Methods**

Every ~~A~~ laboratory ~~which~~ that conducts compliance testing ~~under this rule of drinking water~~ shall follow the guidelines in Key Reference ~~D3 D4, listed in A.A.C. R9-14-610(A), excluding requirements for laboratory personnel educational education and experience, requirements, and use the following approved methods, unless a method falls under the alternate specifications pursuant to R9-14-608(A) or (B). To locate the source of the approved method, cross reference the capital letter listed under "Key" to the reference designation listed in R9-14-608. When the identification and measurement of radio nuclides other than those listed in subsections (E)(1) through (11) of this Section are required, Key reference "X" or "Y" is to be used, except in cases where alternative methods have been requested or approved in accordance with R9-14-608 (A) through (C). In addition, when conducting compliance testing of a drinking water sample for a listed contaminant or group of contaminants, a laboratory shall use at least 1 of the corresponding methods listed below, unless the laboratory uses an alternate method approved by the Department for such testing under A.A.C. R9-14-610(B). Where 2 methods listed are joined by the word "and," a laboratory shall use both methods listed. To locate the source of each method listed, cross reference the capital letter listed under the term "Key" below to the corresponding key-reference list in A.A.C. R9-14-610(A).~~

A. Microbiology:	Key	Approved Method
1. Total Coliforms:		
a. Multiple Tube	C	9221B and C
	<u>C1</u>	<u>8001</u>
b. Membrane Filter	C	9222B, C
c. <del>Coliart (OMPG-MUG) Colilert</del>	C	9223B
d. Colisure	T	Broadway et al.
e. Presence - Absence	C	<del>9221E</del> <u>9221D</u>
2. Heterotrophic Plate Count	C	9215B
3. Escherichia coli	<del>ZX</del>	Tube Procedure
		Membrane Filter Procedure
4. Fecal coliform	C	9221E, 9222D
	<u>C1</u>	<u>8001</u>
5. Viruses	<u>P2</u>	<u>600/R-95/178</u>
6. Giardia and Cryptosporidium	<u>P2</u>	<u>600/R-95/178</u>
B. Sample preparation for metals:	Key	Approved Method
1. Preliminary Filtration	C	3030B
2. Acid Extractable Metals	C	3030C
3. Acid Digestion:		
a. Nitric Acid	C	3030E
b. Nitric Acid/Hydrochloric Acid	C	3030F
c. Nitric Acid/Sulfuric Acid	C	3030G
d. Nitric Acid/Perchloric Acid	C	3030H
e. Nitric Acid/Perchloric Acid/Hydrofluoric Acid	C	3030I

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4. <del>Dry Ashing</del>	€	3030J
<del>5.4. Microwave Assisted Digestion</del>	C	3030K
C. Inorganic chemical and physical characteristics:	Key	Approved Method
1. Alkalinity	C	<del>2320</del> <u>2320B</u>
	I	D1067-92B
	J	I-1030-85
2. Aluminum	A1	200.7, 200.8, 200.9
	C	<del>3120B, 3113B, 3111D,</del> <u>3113B, 3120B</u>
	J	I-3051-85
3. Antimony	A1	200.8, 200.9
	C	3113B
	I	D3697-92
4. Arsenic	A1	200.7, 200.8, 200.9
	C	3113B, 3114B, 3120B
	I	<u>D2972-93B, C</u>
	J	<del>I-1062-85</del>
5. <u>Asbestos</u>	<u>H1</u>	<u>100.1</u>
	<u>H2</u>	<u>100.2</u>
<del>5.6. Barium</del>	A1	200.7, 200.8
	C	3111D, 3113B, 3120B
<del>6.7. Beryllium</del>	A1	200.7, 200.8, 200.9
	C	3113B, 3120B
	I	D3645-93B
8. <u>Bromate</u>	<u>A2</u>	<u>300.1</u>
9. <u>Bromide</u>	<u>A2</u>	<u>300.0, 300.1</u>
<del>7.10. Cadmium</del>	A1	200.7, 200.8, 200.9
	C	3113B
<del>8.11. Calcium</del>	A1	200.7
	C	3111B, 3120B, 3500-Ca D
	I	D511-93 A, B
<del>9.12. Chloride</del>	A2	300.0
	C	<u>4110B, 4500-CI D</u>
	I	<u>D4327-91</u>
<del>10.13. Chlorine, Total Residual</del>	<u>A2</u>	<u>330.1, 330.2, 330.3, 330.4, 330.5</u>
	C	4500-CI D, E, F, G, H, I
	<u>C1</u>	<u>8021, 8167, 8168, 8370</u>
<del>11.14. Chlorine Dioxide</del>	C	<del>4500-CI O2</del> <u>4500-CI O<sub>2</sub> C, D, E</u>
15. <u>Chlorite</u>	<u>A2</u>	<u>300.0, 300.1</u>
<del>12.16. Chromium, Total</del>	A1	200.7, 200.8, 200.9
	C	3113B, <del>3120</del> <u>3120B</u>
<del>13.17. Color</del>	C	2120 B, C, D
	J	<del>I-1250-84</del>
<del>14.18. Copper</del>	A1	200.7, 200.8, 200.9
	C	<del>3111B,</del> 3113B, <del>3120</del> <u>3120B</u>
	I	D1688-90A, <del>D1688-90C</del> <u>C</u>
<del>15.19. Corrosivity</del>	C	2330B
<del>16.20. Cyanide</del>	A2	335.4
	C	4500-CN C, E, F, G
	I	D2036-91A, B
	J	I-3300-85
<del>17.21. Cyanide, Amenable</del>	C	4500-CN G
	I	D2036-91B
<del>18.22. Fluoride</del>	A2	300.0
	<u>A3</u>	<u>380-75WE</u>
	C	<u>4110B, 4500-F B, C, D, E, 4110B</u>
	<u>C1</u>	<u>8029</u>
	I	D1179-93B, <u>D4327-91</u>

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1923.Hardness	A1	Sum of Ca and Mg
	C	by 200.7 as their carbonates.
		2340B, C, Sum of Ca & Mg
		by ICP as their carbonates.
2024.Iron	A1	200.7, 200.9
	C	3111B, 3113B, 3120B
2125.Lead	A1	200.8, 200.9
	C	3113B
	I	D3559-90D
2226.Magnesium	A1	200.7, 200.8, 200.9
	C	3111B, 3120 3120B
2327.Manganese	A1	200.7, 200.8, 200.9
	C	3111B, 3113B, 3120B
	F	D858-90A, D858-90C
2428.Methylene Blue Active Substances	C	5540C
2529.Mercury	A	245.2
	A1	200.8, 245.1, 200.8
	C	3112B
	I	D3223-91
2630.Nickel	A1	200.7, 200.8, 200.9
	C	3111B, 3113B, 3120B
2731.Nitrate	A2	300.0, 353.2, 300.0
	C	4110B, 4500-NO <sub>3</sub> , D, E, F, 4110B
	I	D3867-90A, D3867-90B B, D4327-91
2832.Nitrite	A2	300.0, 353.2, 300.0
	C	4500-NO <sub>2</sub> 4110B, 4500-NO <sub>2</sub> B, E, F, 4110B
	I	D3867-90A, D3867-90B B, D4327-91
2933.Ortho-Phosphate	A2	300.0, 365.1, 300.0
	I	D-515-88A D515-88A, D4327-91
	C	4110, 4500-P-E 4500-P E, F, 4110
	J	I-2601-85 I-1601-85, I-2598-85, I-2601-90
3034.Ozone	C	4500-O <sub>3</sub> 4500-O <sub>3</sub> B
3135.pH (Hydrogen Ion)	A	150.1, 150.2
	C	4500-H B
	C1	8156
	I	D1293-84
3236.Residue, Filterable (FDS)	C	2540C
	J	I-1750-84
33. Temperature, Degrees Celsius	E	2550B
34. Turbidity, NTU: Nephelometric	A	180.1
	E	2130
3537.Selenium	A1	200.8, 200.9
	C	3113B, 3114B
	I	D3859-93A, D3859-93B B
	J	I-3667-85
3638.Silica	A1	200.7
	C	4500-Si D, E, F, 3120B
	I	D859-88
	J	I-1700-85 I-2700-85
3739.Silver	A1	200.7, 200.8, 200.9
	C	3111B, 3113B, 3120B
	J	I-3720-85
3840.Sodium	A1	200.7
	C	3111B, 3120B, D1428-82A
3941.Specific Conductance	C	2510B
	C1	8160
	I	D1125-91A

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<del>40</del> 42. Strontium	A1	200.7
	C	3500-Sr B, C, D
<del>41</del> 43. Sulfate	A	<del>375.2</del>
	A2	300.0, <u>375.2</u>
	C	4110 <u>4110B</u> , <del>4500-SO4</del> <u>4500-SO<sub>4</sub></u> C, D, F
	I	D4327-91
<u>44. Temperature, Degrees Celsius</u>	<u>C</u>	<u>2550B</u>
<del>42</del> 45. Thallium	A1	200.8, 200.9
<u>46. Total Organic Carbon</u>	<u>C</u>	<u>5310B, C, D</u>
<u>47. Turbidity: Nephelometric</u>	<u>A2</u>	<u>180.1</u>
	<u>C</u>	<u>2130B</u>
<u>48. Ultraviolet Absorbing Organic Constituents</u>	<u>C</u>	<u>5910B</u>
<del>43</del> 49. Zinc	A1	200.7, 200.8
	C	3111B, 3120B
<b>D. Organic chemicals:</b>	Key	Approved Method
1. Total Trihalomethanes	<del>DD3</del>	<u>502.2, 524.2, 551.1</u>
	<del>D1</del>	<u>551</u>
	<del>D2</del>	<u>524.2</u>
2. <del>Halogenated Volatiles</del> <u>Volatile Organics</u>	<del>DD3</del>	502.2, <u>524.2</u>
	<del>D2</del>	<u>524.2</u>
3. <del>Aromatic Volatiles</del>	<del>D</del>	<u>502.2</u>
	<del>D2</del>	<u>524.2</u>
<del>43</del> Chlorinated Pesticides	<del>DD3</del>	505, 508, 508.1, 525.2
<del>54</del> Polychlorinated Biphenyls ( <del>PCBs</del> )	<u>D</u>	<u>505, 508, 508A</u>
	<u>D3</u>	<u>505, 508</u>
<del>65</del> Chlorophenoxy Herbicides	<u>E</u>	<u>6640B</u>
	D	515.1
	D2	<del>515.2, 552.1, 555</del>
	<u>D3</u>	<u>515.2</u>
	<u>F</u>	<u>D3478-85</u>
76. 1,2-Dibromoethane ( <del>EDB</del> ) and 1,2-Dibromo-3-Chloropropane	<del>DD3</del>	504.1, <u>551.1</u>
	<del>D1</del>	<u>551</u>
	<u>K</u>	<u>BLS-127</u>
8. <del>1,2-Dibromo-3-Chloropropane (DBCP)</del>	<u>D</u>	<u>504.1</u>
	<del>D1</del>	<u>551</u>
	<u>K</u>	<u>BLS-127</u>
<del>97</del> Nitrogen and Phosphorus Pesticides	<del>DD3</del>	507, <u>508.1, 525.2</u>
<del>108</del> Base/Neutrals and Acids	<del>DD3</del>	<u>525.2</u>
<del>119</del> Carbamates	<del>DD3</del>	<u>531.1</u>
<del>1210</del> Dioxins and Furans	<del>D5E</del>	1613
<del>1311</del> Glyphosate	D1	547
<del>1412</del> Endothall	D2	548.1
<del>1513</del> Diquat and Paraquat	<del>D2D5</del>	<u>549.1 549.2</u>
<del>1614</del> Polycyclic Aromatic Hydrocarbons	<u>D</u>	<u>525.2</u>
	D1	550, 550.1
	<u>D3</u>	<u>525.2</u>
<del>1715</del> <del>DBPs</del> <u>Disinfectant By-products</u> and Chlorinated Solvents	<del>D1D3</del>	<u>551 551.1</u>
<del>1816</del> Haloacetic Acids	<u>C</u>	<u>6251B</u>
	<del>D1</del>	<u>552</u>
	D2	552.1
	<u>D3</u>	<u>551.1, 552.2</u>
<del>1917</del> Phthalate Esters and Adipates	<del>DD3</del>	<u>506, 525.2</u>
	<del>D1</del>	<u>506</u>
<del>2018</del> Benzidines and Nitrogen Pesticides	D2	553
<del>2119</del> Carbonyl Compounds	D2	554
<del>2220</del> Chlorinated Acids	D2	555
	<u>D6</u>	<u>515.3</u>

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E. Radiochemical:	Key	Approved Method
1. Gross Alpha	B	Gross Alpha
	C	7110B, 7110C
	<u>J1</u>	<u>R-1120-76</u>
	L	900
	<u>V</u>	<u>00-01, 00-02</u>
	<u>W</u>	<u>Gross Alpha</u>
2. Gross Beta	B	Gross Beta
	C	7110B
	<u>J1</u>	<u>R-1120-76</u>
	L	900
	<u>V</u>	<u>00-01</u>
	<u>W</u>	<u>Gross Beta</u>
3. <del>Total Radium</del>	<del>B</del>	<del>Total Radium</del>
	<del>C</del>	<del>7500-Ra B</del>
	<del>L</del>	<del>903</del>
43. Radium-226	B	<del>Radium-226</del> Radon Emanation, Precipitation Method
	C	7500-Ra B, 7500-Ra C
	I	D2460-90, D3454-91
	<u>J1</u>	<u>R-1140-76, R-1141-76</u>
	L	903, 903.1
	<u>U</u>	<u>Ra-05</u>
	<u>V</u>	<u>Ra-03, Ra-04</u>
	<u>W</u>	<u>Radium 226</u>
54. Radium-228	B	<u>Radium 228</u>
	C	<u>7500-Ra D</u>
	<u>J1</u>	<u>R-1142-76</u>
	L	904
	<u>V</u>	<u>Ra-05</u>
	<u>W</u>	<u>Radium 228</u>
65. Cesium-134	<u>X1</u>	<u>Radium 228</u>
	B	Cesium-134
	C	7500-Cs B, 7120
	<u>J1</u>	<u>R-1110-76, R-1111-76</u>
	L	901, 901.1
	<u>U</u>	<u>4.5.2.3</u>
	<u>W</u>	<u>Gamma Spectra</u>
76. Iodine-131	B	<del>Iodine-131</del> Precipitation Method, Distillation Method
	C	7500-I B, C, D, 7120
	I	D3649-91, D4785-93
	L	901.1, 902
	<u>U</u>	<u>4.5.2.3</u>
	<u>W</u>	<u>Gamma Spectra</u>
8. <del>Radon-222</del>	<del>L</del>	<del>Lucas Cell</del>
97. Strontium	B	Strontium
	C	7500-Sr B
	<u>J1</u>	<u>R-1160-76</u>
	L	905
	<u>U</u>	<u>Sr-01, Sr-02</u>
	<u>V</u>	<u>Sr-04</u>
	<u>W</u>	<u>Strontium</u>
108. Tritium	B	Tritium
	C	7500-H B
	I	D4107-91
	<u>J1</u>	<u>R-1171-76</u>
	L	906
	<u>V</u>	<u>H-02</u>

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49. Uranium	W B C I J1  L I U V W C L W Key P1	Tritium Uranium 7500-U B, C D2907-91, D3972-90, D5174-91 R-1180-76, R-1181-76, R-1182-76 908, 908.1 D2907-83 U-02, U-04 00-07 Uranium 7120, 7500-Cs B, 7500-I B 901, 901.1, 902 Gamma Spectra Method 910/9-92-029
10. Gamma Emitting Isotopes		
<b>F. Biological:</b>		
<u>Microscopic Particulate Analysis</u>		

**~~R9-14-610~~ R9-14-612. Wastewater Sample Matrix Methods**

Every laboratory which conducts compliance testing under this rule shall use the following approved methods, unless a method falls under an alternate method pursuant to R9-14-608(A) or (B). To locate the source of the approved method, cross reference the capital letter listed under "Key" to the reference designation listed in R9-14-608 (C). When conducting compliance testing of a wastewater sample for a listed contaminant or group of contaminants, a laboratory shall use at least 1 of the corresponding methods listed below, unless the laboratory uses an alternate method approved by the Department for such testing under A.A.C. R9-14-610(B). Where 2 methods listed are joined by the word "and," a laboratory shall use both methods listed. To locate the source of each method listed, cross reference the capital letter listed under the term "Key" below to the corresponding key-reference list in A.A.C. R9-14-610(A).

A. Microbiology:	Key	Approved Method
1. Fecal Coliforms:		
a. Multiple Tube Fermentation	C	9221E
b. Membrane Filter	C	9222D
	J	B-0050-85
2. Total Coliforms:		
a. Multiple Tube Fermentation	C	9221B
b. Membrane Filter	C	9222B
	J	B-0025-77
3. Fecal Streptococcus:		
a. <del>Multiple Tube</del> Multiple Tube Fermentation	C	9230B
b. Membrane Filter	C	9230C
	J	<del>B0055-85</del> B-0055-85
4. Viruses	P	Methods for Virology
	C	9510
	P	Methods for Virology
	P2	600/R-95/178
5. <u>Giardia and Cryptosporidium</u>	C	9711B
	P2	600/R-95/178
6. <u>Ascaris lumbricoides</u>	C	10550
	P3	UofA2000
7. <u>Common tapeworm</u>	C	10550
8. <u>Entamoeba histolytica</u>	C	10550
<b>B. Inorganic chemicals, nutrients and demand:</b>	Key	Approved Method
1. Acidity	A	305.1
	C	2310B
	C1	8010
	I	D1067-92
2. Alkalinity, Total	A	310.1, 310.2
	C	2320B
	I	D1067-92
	J	I-1030-85, I-2030-85

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3. Aluminum	A	202.1, 202.2
	A1	200.7, 200.8, 200.9
	C	<u>3111D</u> , 3113B, <del>3111D</del> , 3120B
	J	I-3051-85
4. Ammonia	A	<del>350.1</del> , 350.2, 350.3
	<u>A2</u>	<u>350.1</u>
	C	<del>4500-NH3</del> <u>4500-NH<sub>3</sub></u> , B, C, <u>D</u> , E, F, G, <del>H</del>
	<u>C1</u>	<u>8038</u>
	I	<del>D1426-89A, D1426-89B</del> <u>D1426-93A, B</u>
5. Antimony	J	I-3520-85, I-4523-85
	A	204.1, 204.2
6. Arsenic	A1	200.7, 200.8, 200.9
	C	<u>3111B</u> , 3113B, 3120B, <del>3111B</del>
	A	206.2, 206.3, 206.4, 206.5
	A1	200.7, 200.8, 200.9
7. Barium	C	3113B, <u>3120B</u> , 3500-As B, C, <del>3120B</del>
	<u>C1</u>	<u>8013</u>
	I	<del>D2972-88A, B, C</del> <u>D2972-93A, B, C</u>
	J	I-3060-85, I-3062-85
	A	208.1, 208.2
8. Beryllium	A1	200.7, 200.8
	C	<del>3111</del> <u>3111D</u> , 3113B, 3120B
	I	D4382-91
	J	I-3084-85
	A	210.1, 210.2
9. Biochemical Oxygen Demand	A1	200.7, 200.8, 200.9
	C	<del>3111</del> , 3111D, 3113B, 3120B, 3500-Be <u>D</u>
	I	<del>D3645-84A, D364588B, D419088</del> <u>D3645-94(88)A, B, D4190-82(88)</u>
	J	I-3095-85
	A	405.1
10. Boron	C	5210B
	<u>C1</u>	<u>8043</u>
	J	I-1578-78
	A	212.3
11. Bromide	A1	200.7
	C	3120B, 4500-B B
	J	I-3112-85
	A	320.1
	A2	300.0
12. Cadmium	I	<del>D1246-88C</del> <u>D1246-82(88)C</u>
	J	I-1125-85
	A	213.1, 213.2
	A1	200.7, 200.8, 200.9
	C	3111B, C, 3113B, 3120B, 3500-Cd <u>D</u>
13. Calcium	I	<u>D3557-90A, B, C, D, D4190-82(88)</u>
	<del>D</del>	<del>3557-90 A, B, C, D4190-82</del>
	J	I-3135-85, I-3136-85, <u>I-1472-85</u>
	A	215.1, 215.2
	A1	200.7
14. Chemical Oxygen Demand	C	<del>3111</del> <u>3111B</u> , 3120B, 3500-Ca <u>D</u>
	<u>C1</u>	<u>8222</u>
	I	<del>D511-92A, D511-92B</del> <u>D511-93A, B</u>
	J	I-3152-85
	A	410.1, 410.2, 410.3, <del>410.4</del>
	<u>A2</u>	<u>410.4</u>
	C	<del>5220B, C, 5220C, D</del>
	C1	<u>8000, 8230</u>
	I	D-1252-88A, B

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	J	I-3560-85, I-3561-85, I-3562-85
15. Chloride	<del>A</del>	<del>A325-1</del> <u>325.1</u> , 325.2, 325.3
	A2	300.0
	C	4500-CI B, C, E
	<u>C1</u>	<u>8225</u>
	I	D512-89A, <del>D512-89B</del> <u>B</u>
16. Chlorine, Total Residual	J	I-1183-85, <del>I-1184-85</del> , I-1187-85, I-2187-85, <del>I-1184-85</del>
	A	330.1, 330.2, 330.3, 330.4, 330.5
	C	4500-CI B, C, D, F, G
	<u>C1</u>	<u>8167, 8168, 10014</u>
	I	<del>D1253-86</del> <u>D1253-86(92)</u>
17. Chromium, Hexavalent	A	218.4
	C	<u>3111C</u> , 3500-Cr D, <del>3111C</del>
	I	D1687-92A
18. Chromium, Total	J	I-1230-85, I-1232-85
	A	218.1, 218.2, 218.3
	A1	200.7, 200.8, 200.9
	C	3111B, C, 3113B, 3120B, 3500-Cr D
	<u>C1</u>	<u>8023</u>
	I	<del>D1687-92A, B, C, D4190-82</del> <u>D4190-82(88)</u>
19. Cobalt	J	I-3236-85
	A	219.1, 219.2
	A1	200.7, 200.8, 200.9
	C	3111B, C, 3113B, 3120B
	I	<del>D3550-90A, B, D4190-82</del> <u>D3558-90A, B, C, D4190-82(88)</u>
20. Color	J	I-3239-85
	A	110.1, 110.2, 110.3
	C	2120B, <del>2120C</del> <u>C</u> , <del>2120E</del> <u>E</u>
21. Copper	J	I-1250-85
	A	220.1, 220.2
	A1	200.7, 200.8, 200.9
	C	3111B, C, 3113B, 3120B, 3500-Cu D, E
	C1	8506
	I	D1688-90A, B, C, <del>D4190-82</del> <u>D4190-82(88)</u>
22. Cyanide, Amenable to Chlorination	J	I-3270-85, I-3271-85
	A	335.1
	C	4500-CN G
	I	D2036-91B
<u>23. Cyanide, Available</u>	<u>Y</u>	<u>OIA-1677</u>
<del>23</del> <u>24</u> .Cyanide, Total	A	335.2, 335.3
	C	4500-CN C, D, E
	I	D2036-91A
<del>24</del> <u>25</u> .Fluoride	J	I-3300-85
	A	340.1, 340.2, 340.3
	A2	300.0
	C	4500-F B, C, D, E
	<u>C1</u>	<u>8029</u>
	I	<del>D1179-88A, D1179-88B</del> <u>D1179-93A, B</u>
<del>25</del> <u>26</u> .Gold	J	I-4327-85
	A	231.1, 231.2
	C	3111B
<del>26</del> <u>27</u> .Hardness	A	130.1, 130.2, Sum of <del>ICP</del> Ca & Mg <u>as</u> their carbonates
	A1	200.7
	C	2340B, <del>2340C</del> <u>C</u>
	<u>C1</u>	<u>8226</u>
	I	<del>D1126-86</del> <u>D1126-86(92)</u>
	J	I-1338-85

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<u>2728</u> .Iridium	A	235.1, 235.2
	C	3111B
<u>2829</u> .Iron	A	236.1, 236.2
	A1	200.7, 200.9
	C	3111B, C, 3113B, 3120B, 3500-Fe D
	<del>E2</del> C1	8008
	I	D1068-90 A, B, C, D, <del>4190-82</del> <u>D4190-82(88)</u>
	J	I-3381-85
<u>2930</u> .Kjeldahl, Total Nitrogen	A	351.1, <del>351.2</del> , 351.3, 351.4
	<u>A2</u>	<u>351.2</u>
	C	4500-NH <sub>3</sub> B, C, E, F, G <u>Combination of 4500-N<sub>org</sub> B, C and 4500-NH<sub>3</sub> C, D, F, G</u>
	I	D3590-89A, <del>D3590-89B</del> B
	J	I-4551-78
<u>3031</u> .Lead	A	239.1, 239.2
	A1	200.7, 200.8, 200.9
	C	3111B, C, 3113B, 3120B, 3500-Pb D
	<u>C1</u>	<u>8033</u>
	I	<del>D3559-85 A, B, C, D</del> , <u>D4190-82</u> <u>D3559-90A, B, C, D, D4190-82(88)</u>
	J	I-3399-85
<u>32</u> . Lithium	<u>A1</u>	<u>200.7</u>
<u>3433</u> .Magnesium	A	242.1
	A1	200.7
	C	3111B, <u>3120B</u> , 3500-Mg D, <del>3120B</del>
	I	<del>D511-92B</del> <u>D511-93B</u>
	J	I-3447-85
<u>3234</u> .Manganese	A	243.1, 243.2
	A1	200.7, 200.8, 200.9
	C	3111B, 3113B, 3120B, 3500-Mn; D
	C1	8034
	<u>I</u>	<u>D858-90 A, B, C, D4190-82(88)</u>
	J	I-3454-85
<u>3335</u> .Mercury	A	245.2
	A1	245.1
	<u>A4</u>	<u>1631</u>
	C	3112B
	I	D3223-91
	J	<del>I-3462-85</del> <u>I-3462-85</u>
<u>36</u> . <u>Methylene Blue Active Substances</u>	<u>A</u>	<u>425.1</u>
	<u>C</u>	<u>5540C</u>
	<u>I</u>	<u>D2330-88</u>
<u>3437</u> .Molybdenum	A	246.1, 246.2
	A1	200.7, 200.8
	C	3111D, 3113B, 3120B
	J	I-3490-85
<u>3538</u> .Nickel	A	249.1, 249.2
	A1	200.7, 200.8, 200.9
	C	3111B, C, 3113B, 3120B, 3500-Ni D
	<u>C1</u>	<u>8037</u>
	I	D1886-90A, B, C, <del>D4190-82</del> <u>D4190-82(88)</u>
	J	I-3499-85
<u>3639</u> .Nitrate	A	352.1, 353.1, <del>353.2</del> , 353.3
	A2	300.0, <u>353.2</u>
	C	<del>4500-NO<sub>3</sub></del> <u>4500-NO<sub>3</sub></u> E, F, H
	I	D3867-90A, <del>D3867-90 B</del>
	J	I-4545-85

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3740.Nitrite	A	354.1
	A2	300.0
	C	4500-NO <sub>2</sub> B
	C1	<del>8607</del> <u>8507</u>
	J	I-4540-85
3841.Oil and Grease <u>and Total Petroleum Hydrocarbons</u>	A	413.1
	C	5520B
	<u>K1</u>	<u>1664</u>
3942.Organic Carbon, Total (TOC)	A	415.1
	C	5310B, C, D
	I	<del>D2579-85A, D2579-85B</del> <u>D2579-93A, B</u>
4043.Orthophosphate <u>Orthophosphate</u>	A	365.1, 365.2, 365.3
	A2	300.0
	C	4500-P; E, F
	<u>C1</u>	<u>8048</u>
	I	D515-88A
	J	I-4601-85
4144.Osmium	A	252.1, 252.2
	C	3111D
4245.Oxygen, Dissolved	A	360.1, 360.2
	C	4500-O C, <del>4500-O</del> G
	<u>C1</u>	<u>8229</u>
	I	D888-92A, B
	J	I-1575-78, I-1576-78
4346.Palladium	A	253.1, 253.2
	C	3111B
4447.pH (Hydrogen Ion)	A	150.1
	C	4500-H B
	<u>C1</u>	<u>8156</u>
	I	<del>D1293-84A, D1293-84B</del> <u>D1293-84(90)A, B</u>
	J	I-1586-85
48. Phenols	A	<u>420.1, 420.2</u>
	<u>C1</u>	<u>8047</u>
4549.Phosphorus, Total	A	<del>365.1, 365.2, 365.3, 365.4</del>
	<u>A2</u>	<u>365.1</u>
	C	4500-P B, E, F
	<u>C1</u>	<u>8190</u>
	I	D515-88A, <del>D515-88B</del> B
	J	I-4600-85
4650.Platinum	A	255.1, 255.2
	C	3111B
4751.Potassium	A	258.1
	A1	200.7
	C	3111B, <u>3120B</u> , 3500-K D, <del>3120B</del>
	J	I-3630-85
4852.Residue, Total	A	160.3
	C	2540B
	J	I-3750-85
4953.Residue, Filterable (FDS)	A	160.1
	C	2540C
	J	I-1750-85
5054.Residue, Nonfilterable (TSS)	A	160.2
	C	2540D
	<u>C1</u>	<u>8158</u>
	J	I-3765-85
5155.Residue, Settleable Solids	A	160.5
	C	2540F
5256.Residue, Volatile	A	160.4
	J	I-3753-85

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5357. Rhodium	A	265.1, 265.2
	C	3111B
5458. Ruthenium	A	267.1, 267.2
	C	3111B
5559. Selenium	A	270.2
	A1	200.7, 200.8, 200.9
	C	3113B, 3114B, 3120B
	I	<del>D3859-88A</del> <u>D3859-93A, B</u>
	J	I-3667-85
5660. Silica, Dissolved	A	370.1
	A1	200.7
	C	<u>3120B</u> , 4500-Si D, <del>3120B</del>
	I	D859-88
	J	I-1700-85, I-2700-85
5761. Silver	A	272.1, 272.2
	A1	200.7, 200.8, 200.9
	C	3111B, C, 3113B, 3120B
	J	I-3720-85
5862. Sodium	A	273.1
	A1	200.7
	C	3111B, 3120B
	J	I-3735-85
5963. Sodium Azide	C	4110C
<del>60. Sodium/Potassium Perchlorate</del>	<del>V</del>	<del>300.0</del>
6164. Specific Conductance	A	120.1
	C	2510B
	<u>C1</u>	<u>8160</u>
	I	D1125-91A
	J	I-1780-85
6265. Strontium	A1	200.7
	C	3111, <u>3120B</u> , 3500-Sr B, C, <del>D 3120B</del>
6366. Sulfate	A	375.1, 375.3, 375.4
	A2	300.0
	C	4500-SO <sub>4</sub> C, D
	<u>C1</u>	<u>8051</u>
	I	D516-90
6467. Sulfide	A	376.1, 376.2
	C	4500-S D, <del>4500-S E F</del>
	<u>C1</u>	<u>8131</u>
	J	I-3840-85
6568. Sulfite	A	377.1
	C	<del>4500-SO<sub>3</sub></del> <u>4500-SO<sub>3</sub> B</u>
	<u>C1</u>	<u>8071</u>
66. Surfactants (MBAS)	A	425.1
	E	5540C
	F	<del>D2330-88</del>
6769. Temperature Degrees Celsius	A	170.1
	C	2550B
6770. Thallium	A	279.1, 279.2
	A1	200.7, 200.8, 200.9
	C	3111B, 3120B
6971. Tin	A	282.1, 282.2
	A1	200.7, 200.9
	C	3111B, 3113B
	J	I-3850-78
7072. Titanium	A	283.1, 283.2
	C	3111D

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<del>7173.</del> Turbidity, NTU	<del>AA2</del>	180.1
	C	2130B
	I	D1889-88A
	J	I-3860-85
7274. Vanadium	A	286.1, 286.2
	A1	200.7, 200.8
	C	3111D, <del>3120B</del> , 3500-V; D, <del>3120B</del>
	I	<del>D4190-82</del> <u>D3373-93, D4190-82(88)</u>
7375. Zinc	A	289.1, 289.2
	A1	200.7, 200.8, 200.9
	C	3111B, C, 3120B, 3500-Zn E, F
	C1	8009
	I	D1691-90A, B, <del>D4190-82</del> <u>D4190-82(88)</u>
	J	I-3900-85
C. <del>Aquatic toxicity and bioassay:</del> <u>Bioassay:</u>	Key	Approved Method
<del>Static, Static/Renewal and Flow-Through</del>	C	8711, 8910
<u>Toxicity</u>	M	600/4-90/027
	M1	600/4-90/027F
	N	600/4-89-001 and 600/4-89-001a
	N1	600/4-91/002
D. Organic chemical:	Key	Approved Method
1. <del>Halogenated Volatiles</del> <u>Volatile Organics</u>	D3	524.2
	E	601, 602, 624, 1624
	K2	1666
2. <del>Aromatic Volatiles</del>	E	602
32. Acrolein and Acrylonitrile	E	603, 624, 1624
43. Phenols	E	604
54. Benzidines	E	605
65. Phthalate Esters	E	606
76. Nitrosamines	E	607
87. Organochlorine Pesticides and <del>PCBs</del>	E	608
<u>Polychlorinated Biphenyls</u>		
98. Nitroaromatics and Isophorone	E	609
109. Polynuclear Aromatic Hydrocarbons	E	610
110. Haloethers	E	611
121. Chlorinated Hydrocarbons	E	612
1312. 2, 3, 7, 8-Tetrachlorodibenzo-p-Dioxin	E	613
13. <u>Tetra- through Octa-Chlorinated</u>	E	1613
<u>Dioxins and Furans</u>		
14. Triazine Pesticides	E	619
15. <del>Purgeables</del>	E	624, 1624
1615. Base/Neutrals and Acids	E	610, 625, 1625
1716. Carbamates and Urea Pesticides	E	632
1817. Total Petroleum Hydrocarbons	A	418.1
1918. Ethylene Glycol in Wastewater	K	BLS-188
19. <u>Organophosphorus Pesticides</u>	E1	614, 1657
E. Radiochemical:	Key	Approved Method
1. Gross Alpha	C	7110B
	I	D1943-90
	L	900
2. Gross Beta	C	7110B
	I	D1890-90
	L	900.0
3. Total Radium	C	7500-Ra B
	I	D2460-90
	L	903.0
4. Radium-226	C	7500-Ra C
	I	D3454-91
	L	903.1

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**R9-14-611 R9-14-613. Solid, Liquid, and Hazardous Waste Sample Matrix Methods**

Every laboratory which conducts compliance testing under this rule shall use the following approved methods, unless required by ADEQ or EPA, or unless a method falls under an alternate method pursuant to R9-14-608(A) or (B). To locate the source of the approved method, cross reference the capital letter listed under "Key" to the reference designation listed in R9-14-608(C). When conducting compliance testing of a solid, liquid, or hazardous waste sample for a listed contaminant or group of contaminants, a laboratory shall use at least 1 of the corresponding methods listed below, unless the laboratory uses an alternate method approved by the Department for such testing under A.A.C. R9-14-610(B). Where 2 methods listed are joined by the word "and," a laboratory shall use both methods listed. To locate the source of each method listed, cross reference the capital letter listed under the term "Key" below to the corresponding key-reference list in A.A.C. R9-14-610(A).

A. Microbiology:	Key	Approved Method
1. Total Coliforms:		
a. Multiple Tube Fermentation	F	9131
b. Membrane Filter	F	9132
<b>B. Hazardous waste characteristics:</b>	<b>Key</b>	<b>Approved Method</b>
1. Corrosivity:		
a. pH determination	F	9040A 9040B, 9041A
b. <del>corrosive</del> Corrosive to steel	F	1110
c. Dermal	F	1120
2. Ignitability	F	1010, 1020A, 1030
3. Reactivity	F	Reactivity
<b>C. Sample extraction procedures:</b>	<b>Key</b>	<b>Approved Method</b>
1. Extraction Procedure Toxicity ( <del>EP TOX</del> )	F	1310A
2. Toxicity Characteristic Leaching Procedure ( <del>TCLP</del> )	F	1311
3. Multiple Extraction Procedure	F	1320
4. Extraction Procedure <del>For</del> for Oily Waste	F	1330A
5. Synthetic Precipitation Leaching Procedure ( <del>SPLP</del> )	F	1312
<b>D. Metals sample preparation:</b>	<b>Key</b>	<b>Approved Method</b>
1. Dissolved in Water	F	3005A
2. Total Recoverable in Water	F	3005A
3. Total Metals	F	3010A, 3120A
4. Oils, Greases, and Waxes	F	3040, 3031, 3040A
5. Sediments, Sludges, and Soils	F	3050A 3050B
6. Microwave Assisted Digestions	F	3015, 3051, 3052
<b>E. Inorganic chemical:</b>	<b>Key</b>	<b>Approved Method</b>
1. Aluminum	F	6010A 6010B, 6020, 7020
2. Antimony	F	6010A 6010B, 6020, 7040, 7041, 7062
3. Arsenic	F	6010A 6010B, 6020, 7060A, 7061A, 7062, 7063, 6020
4. Barium	F	6010A 6010B, 6020, 7080A, 7081
5. Beryllium	F	6010A 6010B, 6020, 7090, 7091
6. Cadmium	F	6010A 6010B, 6020, 7130, 7131A
7. Calcium	F	6010A 6010B, 7140
8. Chromium, Total	F	6010A 6010B, 6020, 7190, 7191
9. Chromium, Hexavalent	F	7195, 7196A, 7197, 7198, 7199
10. Cobalt	F	6010A 6010B, 6020, 7200, 7201
11. Copper	F	6010A 6010B, 6020, 7210, 7211
12. Iron	F	6010A 6010B, 7380, 7381
13. Lead	F	6010A 6010B, 6020, 7420, 7421
14. Lithium	F	6010A 6010B, 7430
15. Magnesium	F	6010A 6010B, 7450
16. Manganese	F	6010A 6010B, 6020, 7460, 7461
17. Mercury	F	7470A, 7471A, 7472
18. Molybdenum	F	6010A 6010B, 7480, 7481
19. Nickel	F	6010A 6010B, 6020, 7520, 7521
20. Osmium	F	6010A 6010B, 7550
21. Potassium	F	6010A 6010B, 7610
22. Selenium	F	6010A 6010B, 7740, 7741A, 7742
23. Silver	F	6010A 6010B, 6020, 7760A, 7761

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24. Sodium	F	<del>6010A</del> <u>6010B</u> , 7770
25. Strontium	F	<del>6010A</del> <u>6010B</u> , 7780
26. Thallium	F	<del>6010A</del> <u>6010B</u> , 6020, 7840, 7841
27. Tin	F	<del>6010A</del> <u>6010B</u> , 7870
28. Vanadium	F	<del>6010A</del> <u>6010B</u> , 7910, 7911
29. Zinc	F	<del>6010A</del> <u>6010B</u> , 6020, 7950, 7951
30. White Phosphorus <del>by GC</del>	F	7580
<b>F. Sample preparation and extraction:</b>	Key	Approved Method
1. Preparation and Extraction	F	<del>3500A</del> <u>3500B</u>
2. Funnel Liquid-Liquid Extraction	F	<del>3510B</del> <u>3510C</u>
3. Continuous Liquid-Liquid Extraction	F	<del>3520B</del> <u>3520C</u>
4. Solid Phase Extraction	F	3535
5. Soxhlet Extraction	F	<del>3540B</del> <u>3540C</u> , 3541
6. <del>Accelerated Solvent</del> <u>Pressurized Fluid</u> Extraction	F	3545
7. Sonication Extraction	F	<del>3550A</del> <u>3550B</u>
8. Supercritical Fluid Extraction	F	3560, 3561
9. Waste Dilution	F	3580A, 3585
10. <u>Equilibrium Headspace</u>	F	<u>5021</u>
<del>11</del> 11. Purge and Trap	F	<del>5030A</del> <u>5030B</u> , 5035
12. <u>Distillation</u>	F	<u>5031</u> , <u>5032</u>
<del>13</del> 13. Sorbent Cartridges from Organic Sampling Train	F	<del>5041</del> <u>5041A</u>
<del>14</del> 14. Cyanide Extraction for Solids and Oils	F	9013
<del>15</del> 15. Bomb Preparation Method for Solid Waste	F	5050
<b>G. Sample cleanup:</b>	Key	Approved Method
1. Cleanup	F	<del>3600B</del> <u>3600C</u>
2. Alumina Column	F	<del>3610A</del> <u>3610B</u>
3. Alumina Column - petroleum wastes	F	<del>3611A</del> <u>3611B</u>
4. Florisil Column	F	<del>3620A</del> <u>3620B</u>
5. Silica Gel Cleanup	F	<del>3630B</del> <u>3630C</u>
6. Gel-Permeation Cleanup	F	3640A
7. Acid-Base Partition	F	<del>3650A</del> <u>3650B</u>
8. Sulfur Cleanup	F	<del>3660A</del> <u>3660B</u>
9. Sulfuric Acid/Permanganate Cleanup	F	<del>3665</del> <u>3665A</u>
<b>H. Organic chemical:</b>	Key	Approved Method
1. <del>EDB</del> <u>1,2-Dibromoethane</u> and <del>DBCP</del> <u>1,2-Dibromo-3-Chloropropane</u>	F	8011
2. Nonhalogenated Volatile Organics	F	<del>8015A</del> , <del>8015M</del> <u>8015B</u>
3. Volatile Organics	F	<del>8021A</del> , <del>8260A</del> <u>8021B</u> , <u>8260B</u>
4. Acrolein/Acrylonitrile/Acetonitrile	F	8316
5. Acrylonitrile	F	8031
6. Acrylamide	F	<del>8032</del> <u>8032A</u>
7. Acetonitrile	F	8033
8. Phenols	F	8041
9. Phthalate Esters	F	<del>8061</del> <u>8061A</u>
10. Nitrosamines	F	<del>8070</del> <u>8070A</u> , 8330
11. Organochlorine Pesticides <del>and PCBs</del>	F	<del>8081</del> <u>8081A</u> , <del>8082</del>
12. <u>Polychlorinated Biphenyls</u>	F	<u>8082</u>
<del>13</del> 13. <del>PCBS</del> <u>Polychlorinated Biphenyls</u> in Waste Oil	FI	<del>EPA-600/4-81-045</del> <u>600/4-81-045</u>
<del>14</del> 14. Nitroaromatics and Cyclic Ketones	F	<del>8091</del> , <u>8330</u> , <del>8091</del>
<del>15</del> 15. Polynuclear Aromatic Hydrocarbons	F	8100, 8310
<del>16</del> 16. Haloethers	F	8111
<del>17</del> 17. Chlorinated Hydrocarbons	F	8121
<del>18</del> 18. Organophosphorus Pesticides	F	8141A
<del>19</del> 19. Chlorinated Herbicides	F	<del>8151</del> <u>8151A</u>
<del>20</del> 20. Semivolatile Organics <del>GC/MS</del>	F	<del>8270B</del> <u>8270C</u> , 8275A

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<del>2021</del> . <del>Semi-Volatiles</del> Semivolatile Organics by GC/FT-IR	F	8410
<del>2422</del> . Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans	F	<del>8280</del> <u>8280A</u> , 8290
<del>2223</del> . Carbonyl Compounds	F	<del>8315</del> <u>8315A</u>
<del>2324</del> . N-Methylcarbamates	F	8318
<del>2425</del> . <del>Non-Volatile</del> <u>Nonvolatile</u> Organics ( <del>HPLC/TSP/MS</del> )( <u>HPLC/PB/MS</u> )	F	<del>8321</del> <u>8321A</u> , 8325
<del>2526</del> . Tetrazine	F	8331
<del>2627</del> . Total Petroleum Hydrocarbons in Soil	F	<del>8440</del>
	K	418.1AZ, <del>8440</del>
<del>2728</del> . <del>Fuel-Class</del> <u>C<sub>10</sub>-C<sub>32</sub></u> Hydrocarbons	K	<del>BLS-191</del> <u>8015AZ</u>
<del>2829</del> . Trinitrotoluene	F	4050
<del>2930</del> . RDX by Immunoassay	F	4051
<del>3031</del> . Aniline and Derivatives	F	8131
<del>3132</del> . Nitroglycerine	F	8332
<del>3233</del> . Bis(2-chloroethyl)Ether Hydrolysis Products	F	8430
<b>I.</b> Organic chemical screening:	Key	<u>Approved Method</u>
1. Headspace	F	<del>3810, 5021</del>
2. Purgeables after Hexadecane Extraction	F	3820
3. Semivolatile Organics <del>TC/MS</del>	F	<del>8275</del> <u>8275A</u>
4. Immunoassay	F	<del>4010</del> <u>4010A</u> , 4015, 4020, 4030, 4035, 4040, 4041, 4042
5. Polychlorinated Biphenyls	F	9078, 9079
6. Trinitrotoluene	F	8515
<b>J.</b> Miscellaneous:	Key	<u>Approved Method</u>
1. Cyanide	F	<del>9010A, 9012</del> <u>9010B, 9012A</u> , 9213
2. Total Organic Halides ( <del>TOX</del> )	F	9020B, 9022
3. Purgeable Organic Halides ( <del>POX</del> )	F	9021
4. Extractable Organic Halides ( <del>EOX</del> )	F	9023
5. Sulfides	F	<del>9030A</del> <u>9030B</u> , 9031, 9215
6. Sulfate	F	9035, 9036, 9038, 9056
7. pH (Hydrogen ion)	F	<del>9040A</del> <u>9040B</u> , 9041A, <del>9045B</del> <u>9045C</u>
8. Specific Conductance	F	<del>9050</del> <u>9050A</u>
9. Total Organic Carbon ( <del>TOC</del> )	F	9060
10. Phenolics	F	9065, 9066, 9067
11. Total Recoverable Oil <del>an</del> <u>and</u> Grease	F	9070, 9071A
12. Nitrate	F	<u>9056</u> , 9210, <del>9056</del>
13. Nitrite	F	9056
14. Chloride	F	<u>9056, 9057, 9212, 9250, 9251,</u> <del>9252A, 9253</del> <u>9057, 9212</u>
15. Bromide	F	9056, 9211
16. Fluoride	F	9056, 9214
17. Total Chlorine in New and Used Petroleum Products	F	9075, 9076, 9077
18. Cation-Exchange Capacity of Soils	F	9080, 9081
19. Compatibility Test <del>For</del> <u>for</u> Wastes and Membrane Liners	F	9090A
20. Paint Filter Liquids Test	F	<del>9095</del> <u>9095A</u>
21. Liquid Release Test Procedure	F	9096
22. <del>Saturates</del> <u>Saturated</u> Hydraulic and Leachate Conductivity, and Intrinsic Permeability	F	9100
<del>23</del> . Chloride	F	9056
<del>2423</del> . O-Phosphate-P	F	9056

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<b>K. Asbestos:</b>	Key	Approved Method
1. Fiber Counting	G	7400, 7402
2. Bulk Asbestos	G	9002
	H	Bulk Asbestos
<b>L. Radiochemical:</b>	Key	Approved Method
1. Gross Alpha and Beta	F	9310
2. Alpha-Emitting Radium Isotopes	F	9315
3. Radium-228	F	9320

**~~R9-14-612~~ R9-14-614. Air Sample Matrix Methods**

~~Every laboratory which conducts compliance testing under this rule shall use the following approved methods, unless a method falls under an alternate method pursuant to R9-14-608(A) or (B). To locate the source of the approved method, cross reference the capital letter listed under "Key" to the reference designation listed in R9-14-608(C). When conducting compliance testing of an air sample for a listed contaminant or group of contaminants, a laboratory shall use at least 1 of the corresponding methods listed below, unless the laboratory uses an alternate method approved by the Department for such testing under A.A.C. R9-14-610(B). Where 2 methods listed are joined by the word "and," a laboratory shall use both methods listed. To locate the source of each method listed, cross reference the capital letter listed under the term "Key" below to the corresponding key-reference list in A.A.C. R9-14-610(A).~~

<b>A. Ambient air:</b>	Key	Approved Method
1. Carbon Monoxide	O	Appendix C
2. Hydrocarbons	O	Appendix E
3. Lead	O	Appendix G
4. Nitrogen Dioxide	O	Appendix F
5. Ozone	O	Appendix D, H
6. Particulate Matter	O	Appendix B, J, K
7. Sulfur Oxides	O	Appendix A
8. Formaldehyde	F	8520
<b>B. Stationary and stack sources:</b>	Key	Approved Method
1. Carbon Dioxide, Oxygen, and Excess Air	Q	Method 3
2. Carbon Monoxide	Q	Method 10, 10A, 10B
3. Carbonyl Sulfide, Hydrogen Sulfide, and Carbon Disulfide	Q	Method 15
4. Fluoride	Q	Method 13A, 13B, 14
5. Fugitive Emissions	Q	Method 22
6. Gaseous Organic Compounds	Q	Method 18, 25, 25A, 25B
7. Hydrogen Sulfide	Q	Method 11
8. Inorganic Lead	Q	Method 12
9. Moisture Content	Q	Method 4
10. Nitrogen Oxide	Q	Method 7, 7A, 7B, 7C, 7D, 7E, 19, 20
11. Particulate Emissions:		
a. Asphalt Processing	Q	Method 5A
b. Fiberglass Insulation	Q	Method 5E
c. Nonsulfate	Q	Method 5F
d. Nonsulfuric Acid	Q	Method 5B
e. Pressure Filters	Q	Method 5D
f. Stationary Sources	Q	Method 5, 17
g. Sulfur Dioxide	Q	Method 19
h. Wood Heaters	Q	Method 5G, 5H
<b>12. Petroleum Product Analysis:</b>		
a. <u>Hydrometer Method</u>	I	<u>D287-92</u>
b. <u>Sulfur</u>	I	<u>D4294-90</u>
c. <u>Heat of Combustion</u>	I	<u>D240-92</u>
<del>13.</del> Sulfur and Total Reduced Sulfur	Q	Method 15A, 16, 16A, 16B
<del>14.</del> Sulfur Dioxide	Q	Method 6, 6A, 6B, 6C, 8, 19, 20
<del>15.</del> Sulfuric Acid Mist	Q	Method 8
<del>16.</del> Vapor Tightness Gasoline Delivery Tank	Q	Method 27
<del>17.</del> Volatile Matter, Density Solids and <del>water</del> <u>Water</u>	Q	Method 24, 24A

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4718. Volatile Organic Compounds	Q	Method 21
	<u>S1</u>	<u>TO-15</u>
4819. Wood Heaters Certification and Burn Rates	Q	Method 28, 28A
C. ADEQ emission tests:	Key	Approved Method
1. Particulate Emissions:		
a. Sulfuric Acid Mist/Sulfur Oxides	R	Method A1
b. Dry Matter	R	Method A2
D. National emission standards for hazardous air pollutants:	Key	Approved Method
1. Arsenic	S	Method 108, 108A, 108B, 108C
2. Beryllium	S	Method 103, 104
3. Mercury	S	Method 101, 101A, 102, 105
4. Polonium-210	S	Method 111
5. Vinyl Chloride	S	Method 106, 107, 107A

**~~R9-14-613~~ R9-14-615. Quality Assurance**

**A.** ~~The laboratory A licensee or an applicant shall have a written quality assurance plan that describes actions to be taken by the lab to ensure that routinely generated the laboratory's analytical data are scientifically valid and defensible and are of known and acceptable precision and accuracy, as prescribed by the approved method for each analysis or as prescribed by the limits established under subsection (C)(8), and are scientifically valid and defensible.~~

**B.** ~~The A licensee or an applicant shall have a written quality assurance plan that shall contain~~ contains:

1. A title page identifying the laboratory; and date of review; and including the laboratory director's signature of approval;
2. A table of contents;
3. A detailed statement of the laboratory organization, including line of authority; and identification of principal quality assurance personnel;
4. A statement of quality assurance objectives, including data quality objectives with precision and accuracy goals; and the criteria ~~for that~~ the laboratory will use to judge the acceptability of each testing;
5. Specifications for:
  - a. ~~The use of proper sample~~ Sample containers;
  - b. ~~The proper preparation~~ Preparation of sample containers;
  - c. ~~The proper preservation~~ Preservation of samples; and
  - d. ~~Compliance sample maximum~~ Maximum allowable holding times;
6. A procedure for documenting laboratory receipt of samples and tracking of samples throughout laboratory testing;
7. A procedure for analytical instrument calibration and, including frequency of calibration;
8. A copy of the laboratory's current license and a list of licensed parameters;
9. ~~A listing of the procedures~~ Procedures for compliance testing data reduction; and validation; and reporting. ~~These procedures shall include~~ of final results, including the identification and treatment of data outliers, the determination of the completeness and accuracy of data transcription, and all calculations;
10. A statement of the frequency of use and acceptance tolerance of all ~~compliance testing~~ quality control checks;
11. A statement of the acceptance criteria for all quality control checks;
- ~~12.~~ Preventive maintenance procedures and schedules;
- ~~13.~~ Assessment procedures for data acceptability;
- ~~14.~~ Corrective action procedures taken when results from analytical quality control checks are unacceptable. ~~These procedures shall include, including~~ the steps taken to demonstrate the presence of any interference if the precision, accuracy, or the practical quantitation limit of the reported compliance testing result is affected by the interference; and
- ~~15.~~ Procedures for chain-of-custody documentation, including procedures for the documentation and reporting of any deviation from the sample handling or preservation requirements listed in this Section.

**BC.** ~~The laboratory A licensee or an applicant shall:~~

1. Have available ~~on the premises at the laboratory~~ all methods, equipment, reagents, and glassware necessary for the compliance testing for which the laboratory is licensed or is requesting ~~licensure. a license~~ if the laboratory documents its ability to perform the approved method and ensures that the analytical data generated are scientifically valid and defensible and are of known and acceptable precision and accuracy it may petition for an exemption only from this subsection;
2. Use only reagents of a grade equal to or greater than that ~~called for~~ required by the approved methods ~~referenced in R9-14-609 A.A.C. R9-14-611 through R9-14-612 A.A.C. R9-14-614;~~
3. Maintain complete and current ~~Standard Operating Procedures~~ standard operating procedures (SOPs) for all licensed methods;
4. Calibrate equipment according to the manufacturer's specifications and as required by the approved method;

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5. Maintain calibration logs documentation available for on-site review. ~~Calibration and documentation thereof by a laboratory instrument service organization is acceptable;~~
6. Develop, document, and maintain current method detection limits and practical quantitation method reporting limits for each compliance parameter; ~~approved method and sample matrix for each instrument of use;~~
7. Maintain all compliance testing equipment in good working order proper operating condition;
8. ~~Maintain quality control charts which demonstrate the accuracy and precision of its compliance testing;~~
98. ~~If a laboratory tests for a parameter for which quality control acceptance criteria is not specified, the laboratory must statistically~~ Statistically develop limits from historical data. ~~The, if the laboratory tests for a parameter for which quality control acceptance criteria are not specified in the method or by EPA or ADEQ, by:~~
  - a. Determining the mean and standard deviation for a minimum of 20 data points, excluding statistical outliers, must be determined. ~~The and~~
  - b. Setting the limits shall be no more than 3 standard deviations from the mean and shall be in the detectable range; and

409. Discard or segregate all expired standards or reagents from all compliance testing.

- D.** A licensee or an applicant may submit a written request to the Department for an exemption from subsection (C)(1) if the licensee or applicant:
1. Documents that the laboratory has performed the approved method and that the analytical data generated were scientifically valid and defensible and of known and acceptable precision and accuracy, and
  2. Documents the laboratory's ability to obtain the equipment, reagent, or glassware necessary to perform the method.
- E.** The written request for an exemption under subsection (D) shall include:
1. The name, address, and telephone number of the laboratory;
  2. The name, address, and telephone number of the licensee or applicant submitting the request;
  3. Identification of the method and the equipment, reagent, or glassware for which the licensee or applicant is requesting an exemption; and
  4. The documentation described in subsection (D)(1) and (2).
- F.** The Department may approve a request for an exemption under subsection (D) if it determines:
1. That the laboratory has performed the approved method;
  2. That the analytical data generated were scientifically valid and defensible and of known and acceptable precision and accuracy; and
  3. That the laboratory is able to obtain the equipment, reagent, or glassware necessary to perform the method.

**R9-14-616. Laboratory Safety**

~~Licensed environmental laboratories shall comply with all applicable federal, state, and local regulations regarding occupational safety and health.~~

**R9-14-614 R9-14-616. Operation**

- A.** ~~All samples accepted by a laboratory for compliance testing shall be analyzed by that laboratory, except that samples, other than those submitted for performance evaluation audit purposes, may be forwarded to another laboratory licensed under this Article or certified by EPA for examination. A compliance sample accepted by a laboratory may be analyzed by the accepting laboratory or another laboratory licensed under this Article or exempted under A.R.S. § 36-495.02(A) or A.A.C. R9-14-602. A proficiency evaluation audit sample shall be analyzed by the accepting laboratory only.~~
- B.** ~~If the laboratory performing an examination analysis is not the accepting laboratory which accepted the sample, all reports required by A.A.C. R9-14-617 shall include the name and address of the accepting laboratory accepting the sample and the name and address of the laboratory actually examining analyzing the compliance sample.~~
- C.** ~~The Each licensed laboratory shall:~~
1. ~~Maintain the facility and utilities required for proper to operate equipment operation and use of perform compliance testing approved methods;~~
  2. ~~Provide environmental controls such within the laboratory to ensure that laboratory conditions do not affect analytical results beyond established quality control limits established for the approved methods listed in R9-14-609 A.A.C. R9-14-611 through R9-14-612 A.A.C. R9-14-614;~~
  3. ~~Provide for storage, handling, and disposal of hazardous materials in accordance with all state and federal regulations; and~~
  4. ~~Maintain documentation on all the following information relating to supervisory, quality assurance, and analytical personnel involved in compliance testing. The documentation shall provide that all these personnel have been trained in the test procedures prior to their performance of unmonitored testing and the documentation shall include:~~
    - a). Summary A summary of each analyst's individual's education and professional experience;

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- b). ~~Verification Documentation of the each analyst's individual's review of the laboratory Quality Assurance Plan, quality assurance plan and the approved methods and laboratory Standard Operating Procedures standard operating procedures used by the analyst for compliance testing, within the area or areas of testing for which the individual has supervisory or quality assurance responsibility or performs testing;~~
- c). ~~Verification Documentation of the each analyst's completion of monitored training which includes on the actual use of the equipment and the use of proper laboratory technique. Verification shall include, including the name of the instructor, the duration of the training, and the date of completion of the training;~~
- d). ~~Verification Documentation of the each analyst's completion of all training classes, continuing education courses, seminars, and/or and conferences, which that relate to the testing procedures used by the analyst for compliance testing;~~
- e). ~~Verification Documentation of the each analyst's successful completion of Initial Demonstration of Capability as required by the approved methods;~~
- f). ~~Records of analysis Documentation of proficiency evaluation testing; and~~
- g). ~~Documentation of each individual's applicable certifications and specialized training.~~

**D.** A licensee shall comply with all applicable federal, state, and local occupational safety and health regulations.

**~~R9-14-615~~ R9-14-617. Laboratory Records and Reports**

- A. ~~Records and reports required to be maintained by this Article shall be available for inspection and copying during normal business hours by representatives of the Department. Copied records can be removed from the laboratory by the Department. Representatives of the Department may remove copied records from a laboratory.~~
- B. ~~Records~~ A licensee shall maintain records and reports of compliance testing shall be kept by the laboratory and the ability to reproduce all electronic data for at least 5 years from the date of compliance testing. Records A licensee shall maintain records and reports for the most current 2 years shall be kept on-site at the laboratory and may store the remaining records and reports may be stored in a secure and easily accessible storage facility.
- C. A licensee shall produce all records and reports requested by the Department within 24 hours of the request. The Department may extend the 24-hour time period if the licensee requires a period longer than 24 hours.

**~~CD.~~** If data from Arizona compliance data is samples are not available for inspection and copying, the laboratory licensee shall make available for inspection and copying any current data from non-Arizona out-of-state compliance data samples when such data are requested by Department representatives to evaluate methods and procedures applied for by the laboratory.

**~~DE.~~** Compliance A compliance testing records record shall contain:

- 1. Sample information, including the following:
  - a. ~~a~~ A unique sample identification assigned by the laboratory,
  - b. The location or location code of sample collection,
  - c. The sample collection date and time,
  - d. The type of testing to be performed, and
  - e. ~~the~~ The name of person the individual who collected the sample;
- 2. The name and address of the facility or person client submitting the sample to the laboratory;
- 3. The name of the individual who submitted the sample to the laboratory;
- 34. The date, and time and name of the person who receives of the laboratory's receipt of the sample into the laboratory;
- 5. The name of the individual who received the sample into the laboratory;
- 46. The date dates and time times of testing, including the date and time of each critical step;
- 57. The actual results of compliance testing, including all raw data, work sheets, and calculations performed;
- 68. The actual results of quality control data validating the test results, including calibration and calculations performed;
- 79. The name of the person analyst or persons analysts performing who performed the test testing; and
- 810. A copy of the final report.

**E.** Complete laboratory personnel records shall be maintained as to:

- 1. Academic training;
- 2. Experience;
- 3. Qualifications; and
- 4. Applicable certifications and/or specialized training.

**F.** ~~Analytical instrumentation performance records shall be maintained to demonstrate consistent standardization performance with standardized reference materials.~~

**~~GE.~~** Reports A final report of compliance testing shall contain:

- 1. Laboratory The name, address, and telephone number of the laboratory;
- 2. Laboratory The license number issued assigned to the laboratory by the Department;
- 3. Result of compliance testing in appropriate units of measure:
  - a) Actual scientifically valid and defensible results of compliance testing in appropriate units of measure, obtained in accordance with the approved method and the laboratory Quality Assurance Plan quality assurance plan, as described in R9-14-613 A.A.C. R9-14-615, by use of proper laboratory technique;

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- 4. ~~b) Any result~~ Results of compliance testing not obtained in accordance with the approved method and the laboratory ~~Quality Assurance Plan~~ quality assurance plan by use of proper laboratory technique, shall be documented as such on the report.;
- 45. A ~~listing~~ list of each the approved method ~~methods~~ used associated with to obtain the reported ~~result~~ results;
- 56. Sample information, including the following:
  - a. ~~the~~ The unique sample identification assigned by the laboratory,
  - b. The location or location code of sample collection,
  - c. The sample collection date and time,
  - d. ~~the~~ The name of the ~~person~~ individual who collected the sample, ~~and~~
  - e. ~~the~~ The name of the ~~facility or person who~~ client that submitted the sample to the laboratory; ~~and~~
  - f. The name of the individual who submitted the sample to the laboratory;
- 7. The date of analysis for each parameter reported;
- 68. The date of the final report; and
- 79. ~~The Laboratory~~ laboratory director's or ~~designee~~ designee's signature.

**~~R9-14-617~~ R9-14-618. Mobile Laboratories**

- A. A ~~laboratory~~ An applicant shall obtain a license is required for each mobile laboratory, unless the ~~laboratory owner~~ applicant chooses the single ~~license~~ license option described in ~~R9-14-606(B)~~ for multiple laboratories as described in A.A.C. R9-14-603(E). ~~All~~ A mobile laboratory shall meet all of the requirements of this Article shall be met by the mobile laboratory.
- B. Upon ~~Department~~ request, the ~~owner~~ licensee of ~~the~~ a mobile laboratory shall provide to the Department ~~information of its the mobile laboratory's location and scope of its compliance testing to the Department~~ a list of the parameters it is testing.

**~~R9-14-618~~ R9-14-619. Out-of-State Environmental Laboratory License Licensing**

- A. ~~Out-of-state laboratories~~ An out-of-state laboratory applying for or possessing an initial license or a renewal license shall comply with the requirements of A.R.S. §§ ~~36-495 through 36-495.15~~ Title 36, Chapter 4.3 and this Article.
- B. ~~In addition to licensure fees,~~ The licensee or applicant for an out-of-state laboratory shall pay all actual expenses incurred by the Department as a result of its the laboratory's location in another state, including:
- C. ~~An out-of-state laboratory shall pay an amount sufficient to cover:~~
  - 1. The estimated cost ~~costs~~ of all routine inspections each laboratory inspection or investigation at the during the licensure period of that laboratory;
  - 2. The amount by which the actual costs of ~~routine lab inspections~~ each laboratory inspection or investigation at a laboratory exceed the estimated costs; ~~and~~
  - 3. Additional expenses incurred by the Department for each on-site investigation at the laboratory; ~~and~~
  - 4. A zone fee for each Department representative required to appear at the laboratory to perform the laboratory inspection or investigation, as follows:

a. <u>For zone 1, including California, Nevada, Utah, Colorado, and New Mexico</u>	<u>\$ 88.00</u>
b. <u>For zone 2, including all states west of the Mississippi River not listed in subsection (4)(a)</u>	<u>\$139.00</u>
c. <u>For zone 3, including all states east of the Mississippi River and Alaska and Hawaii</u>	<u>\$225.00.</u>
- C. The Department determines the estimated costs and zone fees for a laboratory inspection or investigation after making travel arrangements to visit the out-of-state laboratory. The Department then sends a bill for the estimated costs and zone fees to the licensee or applicant for the out-of-state laboratory. The licensee or applicant for the out-of-state laboratory shall submit to the Department the amount of the estimated costs and zone fees within 20 days from the date that the Department sent the bill.
- D. After a laboratory inspection or investigation is completed, the Department determines the actual costs for the laboratory inspection or investigation and any additional expenses incurred for an investigation at a laboratory.
  - 1. If the actual costs and additional expenses exceed the estimated costs and zone fees paid as described in subsection (C), the Department sends a bill to the licensee or applicant for the out-of-state laboratory for the amount by which the actual costs and expenses exceed the estimated costs and zone fees paid. The licensee or applicant for the out-of-state laboratory shall submit to the Department the amount by which the actual costs and expenses exceed the estimated costs and zone fees paid within 20 days from the date that the Department sent the bill.
  - 2. If the actual costs and expenses are less than the estimated costs and zone fees paid as described in subsection (C), the Department shall send a refund or issue a credit to the licensee or applicant for the out-of-state laboratory for the amount by which the estimated costs and zone fees paid exceed the actual costs and expenses. Upon determining that the estimated costs and zone fees paid exceed the actual costs and expenses, the Department shall notify the licensee or applicant and ask whether the licensee or applicant desires a refund or a credit. The Department shall send the refund or issue the credit for the amount by which the estimated costs and zone fees paid exceed the actual costs and expenses within 45 days from the date that the licensee or applicant specified the desired form of payment.

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**R9-14-620. Time-frames**

- A.** The overall time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Article is set forth in Table 1. The licensee or applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Article is set forth in Table 1 and begins on the date that the Department receives an application or request for approval.
1. The Department shall mail a notice of administrative completeness or deficiencies to the licensee or applicant within the administrative completeness review time-frame.
    - a. A notice of deficiencies shall list each deficiency and the items needed to complete the application or request for approval.
    - b. The administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice of deficiencies is issued until the date that the Department receives the missing items from the licensee or applicant.
    - c. If the licensee or applicant fails to submit to the Department all of the items listed in the notice of deficiencies within 180 days from the date that the Department mailed the notice of deficiencies, the Department shall consider the application or request for approval withdrawn.
  2. If the Department issues a license or other approval to the licensee or applicant during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame described in A.R.S. § 41-1072 is set forth in Table 1 and begins on the date of the notice of administrative completeness.
1. As part of the substantive review for an initial license application, the Department shall conduct a laboratory inspection and may conduct an investigation or a proficiency evaluation audit, or both.
    - a. The Department shall commence the laboratory inspection, investigation, or proficiency evaluation audit, or combination of the 3, no more than 30 days after notice of administrative completeness has been mailed for an in-state laboratory or no more than 60 days after notice of administrative completeness has been mailed for an out-of-state laboratory.
    - b. The Department and applicant may mutually agree in writing to extend the laboratory inspection, proficiency evaluation audit, or investigation dates.
  2. The Department shall mail written notification of approval or denial of the application or other request for approval to the licensee or applicant within the substantive review time-frame.
  3. During the substantive review time-frame, the Department may make 1 comprehensive written request for additional information, unless the Department and the licensee or applicant have agreed in writing to allow the Department to submit supplemental requests for information.
  4. If the Department issues a comprehensive written request or a supplemental request for information, the substantive review time-frame and the overall time-frame shall be suspended from the date that the Department issues the request until the date that the Department receives all of the information requested.
  5. The Department shall issue an approval unless:
    - a. For an initial license application or a regular license renewal application where the regular license is not suspended, the Department determines that grounds to deny the license exist under A.R.S. § 36-495.09;
    - b. For a regular license renewal application where the regular license is suspended, the Department determines that the licensee is not in full compliance with the corrective action plan; A.R.S. Title 36, Chapter 4.3; and this Article;
    - c. For a request for approval of a new alternate method or method alteration, the Department determines that use of the method is not required or authorized by an EPA or ADEQ statute or rule or is not justified as described in A.A.C. R9-14-610(B)(2)(d); or
    - d. For an exemption under A.A.C. R9-18-615(D), the Department determines that the laboratory has not performed the approved method; that the analytical data generated were not scientifically valid and defensible and of known and acceptable precision and accuracy; or that the laboratory is not able to obtain the equipment, reagent, or glassware necessary to perform the method.
  6. If the Department disapproves an application or request for approval, the Department shall send to the applicant a written notice of disapproval setting forth the reasons for disapproval and all other information required by A.R.S. § 41-1076.

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**Table 1. Time-frames (in days)**

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-frame</u>	<u>Administrative Completeness Review Time-frame</u>	<u>Substantive Review Time-frame</u>
<u>Initial License–In-State Laboratory</u>	<u>A.R.S. §§ 36-495.01, 36-495.03</u>	<u>201</u>	<u>21</u>	<u>180</u>
<u>Initial License–Out-of-State Laboratory</u>	<u>A.R.S. §§ 36-495.01, 36-495.03</u>	<u>231</u>	<u>21</u>	<u>210</u>
<u>Regular License Renewal–In-State Laboratory</u>	<u>A.R.S. §§ 36-495.01, 36-495.03</u>	<u>37</u>	<u>14</u>	<u>23</u>
<u>Regular License Renewal–Out-of-State Laboratory</u>	<u>A.R.S. §§ 36-495.01, 36-495.03, 36-495.14</u>	<u>67</u>	<u>14</u>	<u>53</u>
<u>Regular License Renewal–In-State Laboratory with Provisional License</u>	<u>A.R.S. §§ 36-495.01, 36-495.03, 36-495.05</u>	<u>70</u>	<u>21</u>	<u>49</u>
<u>Regular License Renewal–Out-of-State Laboratory with Provisional License</u>	<u>A.R.S. §§ 36-495.01, 36-495.03, 36-495.05, 36-495.14</u>	<u>100</u>	<u>21</u>	<u>79</u>
<u>Alternate Method or Method Alteration–Required or Authorized by EPA/ADEQ</u>	<u>A.R.S. § 36-495.01</u>	<u>105</u>	<u>15</u>	<u>90</u>
<u>Alternate Method or Method Alteration–Not Required or Authorized by EPA/ADEQ</u>	<u>A.R.S. § 36-495.01</u>	<u>210</u>	<u>30</u>	<u>180</u>
<u>Exemption under A.A.C. R9-14-615(D)</u>	<u>A.R.S. § 36-495.01</u>	<u>60</u>	<u>15</u>	<u>45</u>

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**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 5. DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENVIRONMENTAL REVIEWS AND CERTIFICATION**

**PREAMBLE**

**1. Sections Affected**

Article 3  
R18-5-301  
R18-5-302  
R18-5-303

**Rulemaking Action**

New Article  
New Section  
New Section  
New Section

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

Authorizing statute: A.R.S. § 49-104  
Implementing statute: A.R.S. § 49-203

**3. The effective date of the rules:**

January 2, 2001

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**4. List all previous notices appearing in Register addressing the rules:**

Notice of Rulemaking Docket Opening: 6 A.A.R. 966, March 10, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 1610, May 5, 2000

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

Name: Shirley Conard  
Environmental Program Specialist

Address: Arizona Department of Environmental Quality  
3033 North Central Avenue, M0401A-422  
Phoenix, Arizona 85012-2809

Telephone: (602) 207-4632 or (800) 234-5677, Ext. 2223 (Arizona only)

Fax: (602) 207-4674

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

This rulemaking implements the requirements contained in R18-9-804(I) and (J), which is being repealed in the Aquifer Protection Permit rulemaking, and further clarifies that a sewage treatment facility, including a facility expansion, must conform with a Certified Areawide Water Quality Management Plan and Facility Plan before construction.

The rulemaking provides alternatives if a Certified Areawide Water Quality Management Plan or Facility Plan is not available or if either plan does not prescribe a configuration for the sewage treatment facility or expansion, i.e., does not adequately address the details of the sewage treatment facility or expansion.

The rules are consistent with the requirements of Section 208 of the Federal Water Pollution Control Act (P.L. 92-500), as amended by the Water Quality Act of 1987 (P.L. 100-4).

The requirements and clarifications provided in this rulemaking consist of current Department practices and no new requirements are implemented.

**7. A reference to any study that the agency relied on in its evaluation of or justification for the 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 the economic, small business, and consumer impact:**

**A. Background**

Section 208 of the Federal Water Pollution Control Act (33 U.S.C. 1288) mandates that regional water quality plans be developed, known as Certified Areawide Water Quality Management Plans (often referred to as 208 Plans). The purpose for this type of planning is to encourage and facilitate area-wide wastewater treatment plans. These water quality management plans include a variety of vital information, including anticipated municipal and industrial waste treatment needs, financial resource needs, land use requirements, construction priorities, regulatory program requirements, nonpoint sources of pollution, and groundwater and surface water protection plans.

The Department is statutorily mandated to incorporate the 208 planning process into its water quality permitting procedures. The Department issues, or modifies a permit for a sewage treatment facility after making a determination that the operation of the facility is consistent with a 208 Plan. Essentially, the Councils of Governments (COGs), each representing the following state planning region, serve as the water quality management planning agencies and are designated to coordinate regional water quality planning. Currently, the designated water quality management planning agencies are:

1. Central Arizona Association of Governments;
2. Maricopa Association of Governments;
3. Northern Arizona Council of Governments;
4. Pima Association of Governments,;
5. SouthEastern Arizona Governments Organization; and
6. La Paz County.

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The Department funds positions in its Water Quality Division to ensure that these regional plans are implemented and that all facilities permitted operate in a manner consistent with 208 Plans. Compliance with the 208 Plans ensures continued federal funding through the Clean Water Act, benefits from comprehensive state and regional environmental planning and management, and continuation of grants and loans in Arizona through the U.S.D.A. Rural Development program and the Water Infrastructure Finance Authority.

This rulemaking clarifies and defines the current manner of dealing with Certified Areawide Water Quality Management Plans, Facility Plans, and General Plans.

**B. Preliminary Analysis.**

The requirements of this rulemaking tightly integrate with the requirements of the Aquifer Protection Permit rulemaking proposed as part of the Department's unified water quality permitting initiative, including early notification to applicants of the 208 Plan conformance requirements.

The rulemaking affects owners and operators of wastewater treatment facilities, both public and private. These owners and operators include counties, municipalities, sanitary improvement districts, the federal government, and private businesses.

Others persons involved with wastewater treatment facilities include engineering consultants, developers, construction contractors, the Department, and the general public.

**C. Rule Impact Reduction on Small Businesses**

The rulemaking will not impose additional costs on the regulated community, small businesses, political subdivisions, or members of the general public.

The rulemaking will not negatively impact employment, revenues, payroll expenditures, or state revenues.

The general public will continue to experience benefits from the regional water quality planning process in Arizona.

State law requires agencies to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives for the rulemaking. The Department considered each of the methods prescribed in A.R.S. §§ 41-1035 and 41-1055(B)(5)(c) for reducing the impact on small businesses.

Methods that may be used include: (1) Exempt small businesses from any or all rule requirements, (2) Establish performance standards that would replace a design or operational standard, or (3) Institute reduced compliance or reporting requirements. An agency may accomplish the 3rd method by establishing less stringent requirements, consolidating or simplifying the requirements, or setting less stringent schedules or deadlines.

Other than providing stakeholders with a clarification of current rules and procedures currently being implemented in the Plan approvals and determination of conformance, the Department has not incorporated other specific methods to reduce the impact on small businesses in this rule.

**D. Less Intrusive or Costly Methods**

The Department did not find any alternative method that is less intrusive or less costly to implement the rule's objectives.

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

Minor editing and structure and format changes were made throughout the rulemaking to comply with the clear, concise and understandable requirements under A.R.S. § 41-1052(C)(4).

The term "Clean Water Act of 1987" has been corrected to the "Water Quality Act of 1987."

R18-5-301. Definitions. The terms "sewage," "sewage collection system," and "sewage treatment facility" are defined in the Aquifer Protection Permitting program under R18-9-101. These terms have been deleted from this Section and the introductory language of this Section has been revised to include the R18-9-101 citation.

R18-9-302. Certified Areawide Water Quality Management Plan Approval. The title of this Section has been revised to make clear which plan approval is being discussed.

R18-9-303. Determination of Conformance. This Section has been edited for clarity.

Other grammatical and clarification rule changes throughout the rule package were made at the request of G.R.R.C. staff.

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

The Department received 1 oral comment and 3 written comments, including 1 follow-up letter by the oral commenter. All of the comments support the process of water quality management planning prescribed in the final rule. This process derives from the existing process specified under 18 A.A.C. 9, Article 8, Sewerage Systems. The final rule will supplant the sewerage systems rules, which will be rescinded as part of Department's unified water quality permit initiative.

Most of the specific comments received by the Department involve the interface of the water quality management planning process specified in this rulemaking with the permitting process proposed in the Department's Aquifer Protection Permit (APP) rulemaking. Some of the comments pertain to the subdivision approval process specified in the Department's subdivision rules, however the Department's subdivision rules are not relevant to this rulemaking process. Some of the comments received by the Department pertain to changes proposed in the Aquifer Protection Permit rulemaking; these comments previously have been addressed in the responsiveness summary to that rule, submitted to the Governor's Regulatory Review Council on September 25, 2000. In this responsiveness summary, the Department has addressed questions that pertain only to this rulemaking, or where relevant issues in other rules could affect the approach or requirements of this rulemaking. In addition, it is noted that the rule has been edited for clarity, conciseness, and understandability.

**Comment:** In R18-5-303, the determination of conformance specifically refers to all sewage treatment facilities including expansions and how they will have to meet Clean Water Act Section 208 requirements. How are these expansions of wastewater treatment facilities to be handled in the APP rules?

This rule clearly indicates the requirement for all sewage treatment facilities, including expansions of facilities, to be in conformance with the Certified Water Quality Management Plan. However, the requirements in the APP rule do not clearly indicate this requirement for expansions of existing facilities. The APP rule should indicate that expansions of sewage treatment facilities also should be in conformance before the Department will issue the preliminary decision to issue the APP.

The APP rule also should indicate that small wastewater treatment facilities, down to 3000 gallons per day, should be in conformance before the Department will issue the preliminary decision to issue the APP.

The APP rule should indicate that "other" amendments of an existing facility should be in conformance before the Department will issue the preliminary decision to issue the APP.

**Response:** The Department made changes in its proposed APP rule to address these comments. The APP rule now clearly states that the Department will not issue its preliminary decision to issue an APP for a facility expansion under a significant permit amendment unless the expansion conforms to the Certified Areawide Water Quality Management Plan. Also, the Department is requiring a determination of conformance for a significant permit amendment in which the permittee is proposing less stringent discharge limitations for the wastewater treatment plant. The proposed APP rule also addresses the comment about small facilities. Because an individual APP is required for all wastewater treatment facilities down to 3000 gallons per day using aerobic and sequencing batch reactor processes, these smaller facilities do, in fact, require a determination of conformance. The Department, however, does not believe that changes covered by "other" amendments in the APP rule are significant enough to merit a determination of conformance. In summary, except for the suggested change for "other" amendments, the commenter's concerns have been answered in the Department's proposed APP rule. Therefore, no change has been made to this rule.

**Comment:** Supports the Department in its interest in preserving the integrity of the federally-based Water Quality Management Planning Program through the unified water quality permit process rulewriting endeavor. We have appreciated the efforts of the Department staff throughout this effort.

Believes in the general public benefits from regional water quality planning and supports the role of the regional planning authority for sewage treatment facilities. Commends the Department for incorporating regional water quality planning as 1 of the 5 proposed rule packages of the Department's unified water quality permitting rules.

**Response:** The Department appreciates these comments.

**Comment:** The language starting both 303.A and B should be modified as follows: "All NEW sewage treatment facilities [strike "including"] OR AN expansion of an existing..." I do not believe the rule intended to cover existing facilities that are not being expanded.

**Response:** The intent of this rule is to ensure that all sewage treatment facilities, new and existing, conform with the Certified Areawide Water Quality Management Plan or other alternatives as identified in the rule. However, the requirement for a determination of conformance applies only at the time a new facility or an expansion to an existing facility is proposed for construction. The rule does not require existing facilities that are not expanding to obtain a new determination of conformance. No change has been made to the rule.

**Comment:** Concerned that the proposed rules would result in a process which may compromise the current coordination of planning and approval for sewage treatment facilities between the regional planning authority and the county environmental department.

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**Response:** This rule in no way changes the coordination between the regional planning authority and county environmental departments. The rule retains the existing determination of conformance process and, in fact, provides a clearer description of the process. No change has been made to the rule.

**Comment:** Concerned that the current rule would impair the effectiveness of controlling sewerage systems and the sale of lots in proposed subdivisions.

**Response:** Neither the existing sewerage system rules nor this final rulemaking require a determination of conformance for proposed subdivisions. For sewerage systems, the Department believes the effectiveness of planning efforts regarding sewage treatment facilities and sewer collection systems actually will be enhanced because of the many improvements proposed in the APP rule. No change has been made to the rule.

**Comment:** This new article has no enforcement provisions; not even provisions for the seldom-used court ordered injunctions. More importantly, it is no longer tied to the sale of lots within the subdivision.

Because of the lack of enforcement provisions in these proposed rules, it may be common for subdivisions with on-site wastewater treatment and disposal facilities or other developments such as trailer parks to begin construction of these facilities prior to APP permit application submittal or regional planning approval.

**Response:** As this rule prescribes a planning function, enforcement provisions are not relevant. Enforcement activities with respect to sewage treatment facilities are properly the domain of, and much more effective in the context of, permitting and water quality standards rules. The Department did not intend the water quality management planning to be an enforceable program in the standard sense of the word. With regard to subdivisions, the water quality management planning provisions of the current rule have never been tied to sale of subdivision lots. Neither does the Department intend that this be the case. The Department also does not agree that construction of trailer parks or on-site systems prior to APP issuance will be a problem, considering that clear enforcement authority is available to the Department under the APP program. No change has been made to the rule.

**Comment:** The proposed rules make conformance with local planning a requirement to be met before issuance of a draft individual APP and therefore prior to discharge of effluent, but not prior to sale of lots or prior to facility construction.

**Response:** The assertion is incorrect. Both the existing rule and the final rule require the determination of conformance to be made before construction. This approach has been in place for more than 2 decades under the current rule. No change has been made to the rule.

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

Not applicable

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

Not applicable

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

No

**15. The full text of the rules follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 5. DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENVIRONMENTAL REVIEWS AND CERTIFICATION**

**ARTICLE 3. WATER QUALITY MANAGEMENT PLANNING**

R18-5-301. Definitions

R18-5-302. Certified Areawide Water Quality Management Plan Approval

R18-5-303. Determination of Conformance

**ARTICLE 3. WATER QUALITY MANAGEMENT PLANNING**

**R18-5-301. Definitions**

In addition to the definitions established in R18-9-101, the following terms apply to this Article:

1. “Certified Areawide Water Quality Management Plan” means a plan prepared by a designated Water Quality Management Planning Agency under Section 208 of the Federal Water Pollution Control Act (P.L. 92-500) as amended by the Water Quality Act of 1987 (P.L. 100-4), certified by the Governor or the Governor’s designee, and approved by the United States Environmental Protection Agency.
2. “Designated management agency” means those entities designated in a Certified Areawide Water Quality Management Plan to manage sewage treatment facilities and sewage collection systems in their respective area.

3. “Designated water quality planning agency” means the single representative organization designated by the Governor under Section 208 of the Federal Water Pollution Control Act (P.L. 92-500) as amended by the Water Quality Act of 1987 (P.L. 100-4) as capable of developing effective areawide sewage treatment management plans for the respective area. The state acts as the planning agency for those non-tribal portions of the state for which there is no designated water quality planning agency.
4. “Facility Plan” means the plans, specifications, and estimates for a proposed sewage treatment facility, prepared under Section 201 and 203 of the Federal Water Pollution Control Act (P.L. 92-500) as amended by the Water Quality Act of 1987 (P.L. 100-4), and submitted to the Department by and for a designated management agency.
5. “General Plan” means a municipal statement of land-development policies that may include maps, charts, graphs, and text that list objectives, principles, and standards for local growth and development enacted under state law.
6. “Service area” means the geographic region specified for a designated management agency by the applicable Certified Areawide Water Quality Management Plan, Facility Plan, or General Plan.
7. “State water quality management plan” means the following elements:
  - a. Certified Areawide Water Quality Management Plans and amendments;
  - b. Water quality rules and laws;
  - c. Final total maximum daily loads approved by the United States Environmental Protection Agency for impaired waters;
  - d. Water quality priorities established by the Department;
  - e. Intergovernmental agreements between the Department and a designated water quality planning agency or a designated management agency; and
  - f. Active management area plans adopted by the Department of Water Resources.

**R18-5-302. Certified Areawide Water Quality Management Plan Approval**

A designated water quality planning agency shall submit a proposed Certified Areawide Water Quality Management Plan or plan amendment to the Director for review and approval. Upon approval, the Governor or the Governor’s designee shall:

1. Certify that the plan or plan amendment is incorporated into and is consistent with the state water quality management plan, and
2. Submit the plan or plan amendment to the United States Environmental Protection Agency for approval.

**R18-5-303. Determination of Conformance**

All sewage treatment facilities, including an expansion of a facility, shall, before construction, conform with the Certified Areawide Water Quality Management Plan, Facility Plan, and General Plans as specified in subsections (1) and (2).

1. The Department shall make the determination of conformance if the sewage treatment facility or expansion of the facility conforms with the Certified Areawide Water Quality Management Plan and Facility Plan that prescribe a configuration for sewage treatment and sewage collection system management by a designated management agency within the service area.
2. If the condition specified in subsection (1) is not met, the Department shall make the determination of conformance as follows:
  - a. If no Facility Plan is applicable and a Certified Areawide Water Quality Management Plan as described in subsection (1) is available, the Department shall rely on the Certified Areawide Water Quality Management Plan for the determination of conformance.
  - b. If no Certified Areawide Water Quality Management Plan as described in subsection (1) is available, the Department shall make the determination of conformance based on conformance with applicable General Plans and after conferring with the designated water quality planning agency for the area and any responsible and affected governmental unit.

**NOTICE OF FINAL RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY  
PERMIT AND COMPLIANCE FEES**

**PREAMBLE**

**1. Sections Affected**

R18-14-101  
R18-14-102  
Table 1  
R18-14-103  
R18-14-104

**Rulemaking Action**

Amend  
Amend  
New Table  
Amend  
Amend

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Schedule A	Repeal
Schedule B	Repeal
Schedule C	Repeal
Schedule D	Repeal
R18-14-105	Amend
R18-14-106	Amend
R18-14-107	Amend
R18-14-108	Repeal

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

Authorizing statutes: A.R.S. §§ 49-104(B), 49-104(C), 49-203(A)(8), 49-241, and 49-245

Implementing statutes: A.R.S. §§ 49-201, 49-203, 49-209(A), 49-332(A), and 49-241.02

**3. The effective date of the rules:**

January 2, 2001

**4. List of all previous notices appearing in the register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 5 A.A.R. 3710, October 8, 1999

Notice of Proposed Rulemaking: 6 A.A.R. 2376, June 30, 2000

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

Name: Jane DeRose-Bamman

Address: 3033 North Central Avenue  
Phoenix, Arizona 85012

Telephone: (602) 207-4374

Fax: (602) 207-4674

E-mail: [jdb@ev.state.az.us](mailto:jdb@ev.state.az.us)

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

To comply with R18-14-108, a stakeholder group was convened in March 1999 to assist the Department in reviewing the revenues derived from and costs incurred for water quality protection services. The Water Quality Fee Fund (WQFF) Stakeholder Group was comprised of 15 members representing large municipalities, industry, mining, small utilities, water users, rural entities, commerce, an environmental organization, the Governor's Office, and the Joint Legislative Budget Committee (JLBC). The WQFF Stakeholder Group examined the sources of revenues derived from water quality protection services fees from permitting and registration fees. The group evaluated costs and uses of revenues in providing water quality protection services including direct and indirect expenses charged to the WQFF which the Department considers, cumulatively, to be direct, billable program costs. On June 30, 1999, as required under R18-14-108(C), the Department issued a report on the revenues derived from and costs incurred for water quality protection services. The final report concluded that a gap exists between the revenues and the costs, with revenues falling short of incurred costs. On September 16, 1999, the Department filed a Notice of Rulemaking Docket Opening with the Secretary of State to commence rulemaking to adjust fees for water quality protection services.

The Department and the WQFF Stakeholder Group continued discussions on how to eliminate the shortfall by reducing costs and increasing revenues. The recommendations included implementing permitting and approval process efficiencies, revising billing practices, and to some extent, increasing revenues by eliminating or adjusting the statutory fee maxima, deriving a new hourly rate, and/or charging for additional water quality protection services.

The following Table A shows the WQFF budget, revenues, and expenditures for the Water Permits Section during FY97 through FY00.

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<b>Table A</b>			
<b>Department WQFF Budget</b>			
	A	B	C = (B-A)
FY97 - FY00	Budgeted Expenditures (Not including Expedited Permit Reviews)	Permit Revenues	Shortfall
1997	\$2,040,000	\$972,215	(\$1,068,185)
1998	\$2,112,900	\$1,261,880	(\$851,020)
1999	\$2,073,600	\$1,308,100	(\$765,500)
2000	\$1,767,000	\$986,870*	(\$780,830)
<b>Total:</b>	<b>\$7,996,000</b>	<b>\$4,529,065</b>	<b>(\$3,465,535)</b>

\* In FY00, the Department was unable to bill for Annual Registration fees for a significant number of facilities. A technical correction in HB 2418 has remedied this situation for FY01.

Table A demonstrates that over the last four fiscal years since the adoption of the current fee rule, water quality protection service revenues have been approximately 43.4% less than the Water Permits Section's budgeted expenditures, resulting in a shortfall of \$3.5 million for budgeted expenditures or an annual average of more than \$800,000. Because the state is not allowed to operate under a deficit and the fee fund revenues fell short of budgeted levels, the Department had to redirect certain staff to work on other state and federally funded projects so that actual expenditures were far lower than budgeted levels. Redirecting staff also impacted the amount of revenues that were earned and the progress on work projects.

The Department implemented permit efficiencies and process improvements. Past improvements attributed to a 26% increase in permit actions issued between FY98 - FY00 (302 actions) over the combined total of permit actions issued between FY90 - FY97 (238 actions). Process improvements included development of numerous fact sheets, checklists, boilerplate language, and technical guidance documents to reduce time needed to clarify issues for both applicants and Water Permits Section staff and to standardize technical review. A formal training program was implemented for new staff to minimize the impact of staff turnover. These improvements led to a reduction in the number of hours used to review applications and faster processing times as a result of trained staff and applications that are more complete when submitted for review. Additional improvements currently implemented include the development of additional templates for permits and permit language, a revision of application forms for Aquifer Protection Permit activities, streamlining processes, development of general permits, and specification of technical requirements for sewage treatment facilities in the Unified Water Quality Permitting (UWQP) rulemaking and the Reclaimed Water Permit (RWP) rulemaking published in the *Arizona Administrative Register* at 6 A.A.R. 1205, April 7, 2000 and 6 A.A.R. 1614, May 5, 2000, respectively. The Department anticipates that the additional changes will significantly improve the processing times for water quality protection services.

The current fee rule, approved in November 1996, authorizes the Department to assess and collect fees for many water quality protection services at the hourly rate of \$49, up to a specified maximum. Permit applications received before November 1996 are charged at an hourly rate of \$31.84 up to a specified maximum. Before April 28, 2000, the statutory maximum fee under A.R.S. § 49-241.02 was \$16,000 for an individual permit action and \$25,000 for a site. Twenty-three permit actions (individual permits, complex modifications, and clean closures) exceeded the applicable maximum fees from FY97 through FY99. Fifteen of those 23 actions were for mining operations. The Department issued 24 mining actions in that same time period. Therefore, 62.5% of the mining actions exceeded the applicable fee cap. The statutory maximum fee was much lower than actual Department costs for issuing numerous large mining facility permits. Because the costs exceeded the fee, the staff time, which exceeded the cap, had to be covered by other funding. The impact on revenues has been substantial because of the number of hours involved in these projects. The Department, working with the regulated community, sought a legislative change in the statutory maximum fee, which it subsequently obtained.

The 2000 legislative session adjusted maximum fees for Aquifer Protection Permit actions under A.R.S. § 49-241.02. This action adjusted the maximum fees to the lesser of an administratively calculated maximum fee or a statutory maximum. The administrative maximum is now based on permitting efficiencies and costs of administering the Aquifer Protection Permit program as identified by the hourly rate fee. In addition, every action is subject to a separate maximum fee, instead of the \$25,000 cap for a site. The Department estimates that these changes, if implemented for permit actions issued between FY96 - FY99, would have recovered approximately \$200,000 in additional revenues from individual permits issued over the last four years based on a \$49 per hour rate. This increase, added to the permitting efficiencies discussed above, however, is not enough to eliminate the shortfall based on the budgeted expenditures.

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This rulemaking addresses the remaining shortfall by charging \$61 per hour for review hours, charging flat rate fees for general permits in lieu of the hourly rate fee or no fee, charging for additional water quality protection services, and billing on a more frequent basis. The rulemaking does not address fees for 3rd party review contractors, under A.R.S. §§ 49-203(C) and 49-241.02(D).

**SECTION-BY-SECTION ANALYSIS**

**R18-14-101. Definitions.**

This Section establishes terms used within this rulemaking and references rules governing Aquifer Protection Permits and Reclaimed Water Permits under A.R.S. Title 49, Chapter 2, and simplifies interpretation of responsibility and clarity of purpose.

The terms “ADEQ,” “annual inspection,” “Approval of Construction,” “Approval to Construct,” “approved,” or “approval,” “Aquifer Protection Permit,” “conventional septic tank,” “gpd,” “major modification,” “NPDES permit,” “other modification,” “related costs,” “reuse permit,” “time extension,” “U.S. EPA,” and “wastewater treatment facility” are no longer used in this rulemaking and have been deleted.

The terms “complex modification” and “standard modification” are used in this rulemaking to clarify how fees are charged, as required under A.R.S. § 49-241.02, rather than “significant amendment,” “other amendment,” and “minor amendment,” which are used in the UWQP rulemaking. The “complex modification” and “standard modification” terms dictate the applicable maximum fees for an application. These specific modification terms address the amount of review time that may be required for the Department staff to process an application. The types of “amendments” to permits in the UWQP rulemaking refer to the type of program activity required to process the request for a water quality protection service, but don’t necessarily correlate to the amount of review time involved. The Department anticipates that a portion of the “significant amendment” activity will fall under “complex modification” and may be subject to the greater statutory maximum fee. The remaining “significant amendment” actions and the “other amendment” and some “minor amendment” actions will most likely fall under “standard modification” and be subject to the lower statutory maximum fee. For any amendment, the appropriate administrative maximum applies if it is lower than the applicable statutory maximum.

Legislative changes to A.R.S. § 49-104(C), effective January 1, 2001, removes the authority for charging fees for all annual inspections, but provides authority to charge fees for annual reclaimed water inspections for facilities covered by a reclaimed water permit. The definition of “water quality protection service” has been changed accordingly. Also, this term has been clarified to cite activities performed following permit issuance and requirements of conditions specified in the permit.

**R18-14-102. Hourly Rate and Flat Rate Fees.** This Section requires the Department to assess fees for water quality protection services, including site visits, and calculates the fee for each water quality protection service, either by using an hourly rate fee or a flat rate fee. These fees apply for hours incurred or applications for flat rate services received after January 1, 2001.

Subsection (B) includes the hourly rate criteria specified in the current R18-14-103(A). The Section lists the types of review activities that are excluded from the hourly rate fees and the additional costs that may be related to a review and charged to the applicant. The prohibition on charging for travel time has been renumbered and the Section now clarifies that the Department will not charge for the first 60 minutes of pre-application consultation time. Based on the authority in A.R.S. § 49-203(A)(8) (effective January 1, 2001), the Department may “...assess and collect fees to cover, as necessary, reasonable costs to revoke, issue, deny, modify or suspend permits...” and in A.R.S. § 49-241(F), the Director “...may authorize expenditures from the fund...to pay reasonable and necessary costs of processing and issuing permits...”, the Department will charge \$61 per hour for all review hours billed after January 1, 2001 for hourly rate projects regardless of when an application is received because, as explained below, that hourly fee rate will cover the reasonable and necessary costs of operating the program. The review hours incurred before January 1, 2001 will be billed at the hourly rate that was effective at the time the application was deemed administratively complete.

The \$61 hourly rate has been calculated in the following manner. The expenses are based on all current staffing positions because all are needed to process the current and projected workload inventory of more than 80,000 hours of work. The Water Permits Section established annual performance measures relating to A.R.S. § 49-242.01 requiring the issuance or denial of Aquifer Protection Permits to existing facilities and to the licensing time-frame requirements for applications submitted after August 14, 1999. The Department estimates that the number of pending aquifer protection permit and reuse permit applications and projections for incoming work equates to more work hours than can be accomplished by the current staff – even if all positions are filled. Therefore, the FY01 workplan for Water Permits Section activities is based on the amount of work that can be accomplished based on the current number of authorized staff positions (17 project manager positions, 16 technical staff (engineers and hydrologists), five clerical positions, four supervisors, and one section manager) for water quality protection services within the Water Permits Section. The Department anticipates that the number of positions will not be increased for Water Permits Section staff. Positions and activities related to inspections and solid waste Aquifer Protection Permits are not used in the analysis because these hours and revenues are only a small percentage of the total.

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The Department estimated total program related costs for Water Permits Section staff, which include salary and employee related expenses (ERE), such as fringe benefits; overhead costs, such as rent, utilities, postage, etc.; and other costs, including training, supplies, equipment, travel; and professional and outside services. Salary costs are derived by dividing staff into five position categories (project management, technical, clerical, supervisory, and section management) and multiplying the number of positions in each category by the maximum salary for that category. Maximum salaries are used for each position type because: 1) it is extremely difficult and arbitrary to calculate an average for the actual salaries because the salaries vary throughout the year and as soon as it is calculated, the average is incorrect; 2) the maximum figures are fixed numbers that may be obtained from Arizona Department of Administration; and 3) using the midpoint salary range will produce a salary that is too low because many Department employees are above the midpoint level, thus using average salaries based on the midpoint salary range will not recover enough fees. In addition, the Office of the Auditor General made several recommendations in a November 1999 Audit Report (No. 99-21) pertaining to improvements for the Aquifer Protection Permit program. The first recommendation was for the Department to continue working to upgrade professional positions within the Aquifer Protection Permit program as it sees necessary. The state increased annual salaries for clerical and hydrologist positions in January 1998 and October 1998, respectively. In addition, state agency engineering positions received a special market adjustment increase in annual salaries. The Department believes that providing better salaries is a major factor in hiring and retaining qualified staff. By using the maximum salary to develop the hourly rate, the Department is able to accommodate these financial adjustments.

The ERE cost is determined by multiplying the salary figure by the ERE rate. For FY00, the ERE was calculated at 21.1%, which is based on an average amount of benefits for employees. Overhead costs amount to 51.24% of salary and ERE costs. Other costs were estimated at \$2000/employee. Travel costs were estimated at \$500/employee position/year. A lump sum of \$70,000 was included for professional and outside services and equipment.

Based on those assumptions, the Department estimates total program related costs are \$4.5 million per year. Approximately \$1.9 million is paid for by general funding sources (\$1.2 million directly to the program and an estimated \$700,000 to cover overhead expenses associated with the personnel covered by general funding), therefore the program must generate fees of \$2.6 million. The hourly rate is derived by dividing the remaining expenses by the estimated number of hours for fee-based services completed within one year for project managers and technical staff. Using the assumption that was used to derive the current hourly rate, the Department assumes that project managers and technical staff work 62.4% of their time on billable projects or 1300 hours/year. The total billable hours for 33 staff positions is estimated to be 43,000 hours per year. The costs divided by total billable hours, rounded-up to the nearest dollar, equals \$61.

Costs for contracted water quality protection services, such as presiding officer, court reporter, and/or facility rentals associated with public hearings will be charged directly to the applicant. The Department will charge the applicant for any project-related laboratory analyses expense incurred on behalf of the applicant during the application review. The Department may also charge for other reasonable direct-costs, such as contracting with private consultants to perform certain permit activity-related tasks, if the need for the other reasonable, direct plan review-related cost is documented in writing and agreed to by the applicant. These additional review-related fees will be added to the review hours fees, but the total fee is subject to the maximum fee for that application. This provision does not refer to 3rd party review contracts under A.R.S. §§ 49-203(C) and 49-241.02(D).

This Section also provides flat rate fees for certain water quality protection services. New flat rate fees are specified for determinations of applicability, subdivision approvals, and general permits.

**Subsection (C)(3), determination of applicability.** The Department receives requests from potential applicants to determine if the operation is exempt from the Aquifer Protection Permit individual permit program or qualifies for a general permit. In the past, the water quality protection service was free unless the Department determined that an individual permit was required. If an individual permit was required, the hours of the determinations of applicability review were applied to the bill for the individual permit if the permittee submitted an application for an individual permit for the facility. Staff time for these reviews typically range between two and 20+ hours for a single facility and are performed primarily for wastewater treatment operations. The Department believes a part of this time should be recoverable and that a fee of \$100 per request is reasonable. This fee applies even if the determination of applicability concludes that a facility is exempt from the Aquifer Protection Permit program requirements or qualifies for a Type 1 General Permit. If an individual permit is necessary, this rulemaking authorizes the Department to apply the \$100 flat fee toward the fee for the individual permit and to include the hours for the determinations of applicability review in the fee for the water quality protection service, or if the facility qualifies for Type 2, Type 3, or Type 4 General Permit, to apply the \$100 fee toward the flat rate fee for the general permit. The Department expects the number of determinations of applicability requests submitted for review will decrease because of the additional general permits and the qualifying criteria specified in the UWQP rulemaking.

For an area-wide permit application review, often a site contains facilities that may be exempt or may qualify for a general permit. The hours for the determinations of applicability review will be applied to the total permit review hours provided the facility itself is not exempt and not covered by a general permit. If the determination of applicability is completed as part of an area-wide permit, under A.R.S. § 49-243(P), the fee for the individual permit applies. The facilities covered by a general permit will be subject to the appropriate fee specified in R18-14-102(C)(5), (C)(6), and (C)(7).

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**Subsection (C)(4), subdivision approvals.** A.R.S. § 49-104(B)(11) authorizes the Department to define rules regarding water supply, sewage disposal, and garbage collection, and disposal for subdivisions. A.R.S. § 49-104(B)(11)(b) authorizes the Department to charge fees for water quality protection services. In the past, the Department did not charge fees for subdivision approvals. Depending on the type of water system and sewage system, the Department may spend between five and 20 hours on review and processing for a subdivision approval request for a residential lot subdivision, a recreational vehicle park, or a mobile home park that sells each space. The fee for subdivisions where sewage treatment and disposal are provided outside the boundaries of the individual lots is \$300 based on an estimate of 5 hours of processing time. For subdivisions where the owner of the lot is responsible for providing sewage treatment and disposal within the boundaries of the lot, the fee is \$1000 for subdivisions with 41 to 150 lots, and \$500 for subdivisions with 40 lots or less. The fee for subdivisions of using individual on-site treatment and disposal systems is higher than for off-site treatment and disposal because a detailed analysis is performed of the site conditions and corresponding on-site system technologies necessary for proper wastewater treatment and disposal. The Department estimates that the review for subdivisions of 41-150 lots takes approximately 16 hours to complete. The 40 lot cut-off for the reduced subdivision approval fee is based on the assumption that the aggregate flow from a subdivision of 40-lots or less would be no more than 24,000 gallons per day (150 gallons per bedroom times 4 bedrooms per house times 40 houses). The flow of 24,000 gallons per day is the cut-off for qualifying for a general permit in the UWQP when onsite treatment and disposal is used. The Department estimates that a review for the smaller subdivisions would take approximately 8 hours of review time.

Because of the additional work involved with reviewing large subdivisions, the Department will issue subdivision approvals for 150 lots or less per approval. Subdivisions with more than 150 lots or spaces will need to apply for approval in phases. The appropriate fee applies to each subdivision phase. The Department specified the 150 lot cut-off for each phase because it estimates that approximately 85% of subdivisions applications approved during FY96 through FY99 were for subdivisions of 150 lots or less.

**Subsections (C)(5), (C)(6) and (C)(7), general permits.** The UWQP rulemaking eliminates the separate Approval to Construct (ATC) and Approval of Construction (AOC) processes, and adds three Type 2 General Permits, 7 Type 3 General Permits, and 23 Type 4 General Permits. The UWQP rulemaking specifies design review within the individual permit review process for a sewage treatment facility with flow greater than 24,000 gallons per day and for a sewage treatment facility using a pre-fabricated, manufactured treatment works with flow between 3000 and 24,000 gallons per day. For all other facilities currently required to obtain an ATC and an AOC, the UWQP rulemaking replaces the ATC and AOC processes with general permits specified in Article 3 of the UWQP rulemaking. The RWP rulemaking includes several general permits to cover the parties involved in the generation, distribution, or application of reclaimed water. In most cases, these general permits provide operations meeting certain design requirements an opportunity to be permitted in less time and for lesser review fees when compared with the individual permitting method.

The UWQP and RWP general permits are categorized by general permit type. The general permit activities are subject to the provisions under R18-14-102(C)(5), (C)(6), and (C)(7) and the flat rate fees specified in R18-14-102, Table 1. The flat rate fee serves in lieu of any initial fee, calculated hourly fee, and any permit-related costs. Based on stakeholder feedback, the Department is prescribing a process for discounting the permitting for Types 2, 3, and 4 General Permits or the transfer fee for Types 2 and 3 General Permits if a site contains more than one facility covered under a general permit specified under R18-14-102(C)(6)(c) and (C)(7)(b). The rule specifies a transfer fee for Type 4 General Permits no matter the number of Type 4 General Permits used in the design of the facility.

No fee is proposed for a Type 1 General Permit. If a facility complies with the Type 1 General Permit criteria specified in the rule, the owner is automatically “licensed” and not required to notify the Department.

Flat rate fees are specified under R18-14-102(C)(5), (C)(6), and (C)(7), and under R18-14-102, Table 1 for permits, expansions, and renewals for Type 2 and Type 3 General Permits and for permits and expansions for Type 4 General Permits. Flat fees are also specified for permit transfers for Type 2, 3 and 4 General Permits. All flat rate fees must be paid in one lump sum at the time of application, not annually.

Type 2 General Permits require minimum Department review. The Department estimates that approximately 5-6 hours of work is needed for initial verifications or renewals if changes have occurred with the facility. Using a \$61 per hour rate for the 5-6 hours, the issuance fee is \$300. The fee for renewals if there are no changes is \$120, based on two hours for comparing the renewal data with the data that were supplied with the initial application, inputting data into the databases and filing the forms. Because the Department may visit the site at least once during the permit duration to ensure compliance with permitting conditions, the renewal fee also includes a portion of the time for compliance inspection costs. These costs are part of the reasonable and necessary costs for revoking or suspending a permit as allowed under A.R.S. § 49-203(A)(8) (as of January 1, 2001). The \$50 permit transfer fee for a Type 2 General Permit is appropriate due to the time involved with reviewing data supplied on the transfer form to ensure that the new owner/operator will operate the facility according to the conditions of the general permit, entering data into the databases and filing the forms. The transfer fee is equal to less than 1 hour of billable time. The transfer fee is discounted for each additional facility on the site that is covered by the same type of Type 2 General Permit.

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The Department reviews requests for Type 3 General Permit coverage, and if conditions are met, will prepare a verification. Based on past permit issuance for individual permits and an assumption of 30-40% reduction in processing time, the Department estimates an average of 25-30 hours is needed to complete the certification from log-in to final data entry. This fee for Type 3 General Permits, based on \$61 per hour, is approximately \$1500. This fee applies for a new application for a Type 3 General Permit, or a renewal if the operations change. The full fee is required for a Type 3 General Permit renewal when operations change because the application is treated like a new application. If no changes occur to the operations, the renewal fee is \$500 based on an estimated 8-10 hours of review and processing time that may be necessary to re-verify that a Type 3 General Permit still applies. The time estimate includes time for analyzing data, entering data and decisions into the databases and filing the forms. Because the Department may visit the site at least once during the permit duration to ensure compliance with permitting conditions, the renewal fee also includes a portion of the time for compliance inspection costs. These costs are part of the reasonable and necessary costs for revoking or suspending a permit as allowed under A.R.S. § 49-203(A)(8) (as of January 1, 2001). The \$50 permit transfer fee for Type 3 General Permits is required due to the time involved with reviewing data supplied on the transfer form to ensure that the new owner/operator will operate the facility according to the conditions of the general permit (may involve meeting with or calling the new owner or operator), entering data and decisions into the databases and filing the forms. The transfer fee is equal to less than 1 hour of billable time. The transfer fee is discounted for each additional facility on the site that is covered by the same type of Type 3 general permit.

A variety of flat rate fees are specified for Type 4 General Permits. The fees are based on the estimated complexity and review times for the various permits.

General Permit Type 4.01 from the UWQP rule is for sewer collection systems. Because sewer collection systems have several components, the Department specified fees based on whether the system is gravity-based only or includes force main components and also the number of connections to the system. Gravity-based systems are simple to review, but several aspects need to be verified. Force main systems are more complex than gravity systems because the designs will include lift stations and/or low pressure sewers. The Department estimates that on average 5 hours of additional review time is needed for force main systems to review calculations and design criteria for lift stations and low pressure sewers. The number of connections increases the amount of review time due to size. The Department specified flat fees for three different amounts of connections: 50 or less, 51 to 300, and 301 or more. These cut-off were based on review time for sewerline ATC project applications reviewed between mid-FY98 and FY00. The one flat fee covers both the provisional verification and verification processes for the General Permit Type 4.01.

The Department estimated a fee for each individual onsite wastewater treatment facility based on the complexity of the design requirements because the Department has not frequently reviewed many of these newer technologies for individual on-site wastewater systems and the Department has never issued Type 4 General Permits before.

The design of onsite wastewater treatment facilities discharging less than 3000 gallons per day may contain more than one Type 4 General Permit. For situations using more than one Type 4 General Permit, subsection (C)(7)(b) specifies that the general permit fee will be calculated using the greatest fee for any of the applicable general permits plus \$250 for each additional general permit. Additional charges for designs using an alternative design feature and/or an interceptor for oil and grease are specified in subsection (C)(7)(a). The flat rate fee covers both the Provisional Verification and Verification stages, including one site visit for each stage. The Type 4 General Permit does not require renewal. However, the owner or operator must notify the Department or the delegated authority of any property transfer. A \$50 fee for transfer of ownership for Type 4 General Permits is specified under R18-14-102(C)(7)(c). The transfer fee is equal to less than 1 hour of billable time.

If the Department determines that the facility does not qualify for the general permit and an individual permit is necessary, the Department will not apply the flat rate fee towards the fee for the individual permit. The appropriate initial fee will need to be submitted with the application for the individual permit.

The Department anticipates that the vast majority of pending applications for individual aquifer protection permits will need to be processed as individual permits although the additional general permits will be available; a high percentage of reuse permit applications should qualify for reclaimed water general permits; and all of the ATCs and AOCs pending will transition to Type 4 General Permits. During calendar year 2000, for an applicant who owns or operates a facility that may qualify for a Type 2 or Type 3 General Permit, the Department informed the applicant of the general permits in the UWQP and RWP rules and gave the applicant the option to submit an application after the effective date of the rules. Any applicant who submitted an application currently being review by the Department and who believes that the facility could qualify for a general permit, may decide that it is beneficial to withdraw the individual permit application and submit an application for a general permit to the Department. In these cases, the Department will charge for all review hours charged to the project to that date, up to an applicable fee cap, for the individual permit review. If the applicant notifies the Department of its preference to operate under a general permit, the applicant must submit the flat rate fee for the general permit and pay the fee for all review hours charged to the project up to the date of notification. If a credit remains, the credit would be applied towards the flat rate fee. The Department will analyze the information to see if the operation qualifies for the particular general permit. If the facility qualifies for the general permit, the Department will base the review fee on the number of review hours for the project prior to the date of the request, plus the amount of time needed to evaluate conformance with the general permit conditions up to the flat fee for the general permit. If the facility does not qualify for the general permit, the Department will assess the entire flat fee for the general permit and continue to process the individual permit application.

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The Department will subtract time spent on the general permit application review from the total review time to come up with the total review hours for the individual permit.

**R18-14-103. Initial fees.** Initial fees are required only for water quality protection services billed on an hourly basis, such as issuance, amendment, and denial of individual permits or reclaimed water individual permits; issuance of clean closure approvals; or review of products, except for performance of annual reclaimed water facility inspections.

In the current rule, initial fees for water quality protection services for Aquifer Protection Permit actions are based on the number and type of discharging facilities and the type of water quality protection services. For applications with multiple discharging facilities, the initial fee for the application is equal to the sum of each applicable initial fee up to any maximum permitting fee. This method was necessary because the Department billed for water quality protection service fees only one time – at the end of the review process. This rulemaking establishes one initial fee for most water quality protection services subject to an hourly fee, such as \$1000 for each water quality protection service, except annual reclaimed water inspections. The Department does not charge an initial fee for an annual reclaimed water inspection. The initial fee in this rulemaking is simpler for applicants and for Department staff. The initial fee is lower than the current initial fee for most of the applications processed by the Water Permits Section.

The initial fees for ATC and AOC have been eliminated from the rulemaking because the services will no longer be provided after December 31, 2000.

**R18-14-104. Maximum fees.** This Section addresses maximum fees for water quality protection services relating to the Aquifer Protection Permit and Reclaimed Water Permit programs.

The Section refers to the formula for calculating maximum fees for Aquifer Protection Permit projects subject to the hourly rate fees under A.R.S. § 49-241.02(A). Maximum fees will be adjusted annually based on permitting efficiencies and the hourly rate. The revised maximum fees will be published, with the hourly rate, in the Annual Fee Schedule in the *Arizona Administrative Register* by June 1 of each year. The new maximum fees will then be effective for the next fiscal year and apply to projects deemed administratively complete during the same fiscal year. The administratively calculated maximum fees which will be effective from the effective date of this rulemaking through the end of FY01 (June 30, 2001), that would apply to projects deemed administratively complete during that time period, are:

Drywell: \$5000;

Industrial Area-wide and Operating Utilities: \$10,900;

Industrial Closures and Operating Non-Utilities: \$8300;

Mining: \$67,200; and

Wastewater: \$9500.

A.R.S. § 49-241.02 provides statutory maxima of \$75,000 for application reviews for individual aquifer protection permits and complex modifications; \$35,000 for application reviews for closure without an aquifer protection permit; and \$15,000 for application reviews for standard modifications. The lesser of the applicable administrative maximum and the statutory maximum applies to the application.

Although the process for this rulemaking has already provided public notice of the upcoming fee change, to comply with the yearly publication requirement under A.R.S. § 49-241.02, for FY01, the Department will publish the Annual Fee Schedule by January 1, 2001. Once an application is deemed administratively complete, a maximum fee for that permit action is “locked-in” and cannot be increased for that permit action application. The rule specifies a process for dealing with applications that are being reviewed and that are considered to be administratively complete by the Department.

The maximum fee for reclaimed water permits is unchanged. The maximum fees for ATC and AOC have been eliminated from the rulemaking because the services will no longer be provided after December 31, 2000.

**R18-14-105. Fee Assessment and Collection.** To adopt a more business-like approach, the Department will bill the applicant at least quarterly, but not more than monthly, for the review fees. This periodic billing approach will be used until a final decision is made on the application. The Department will send a final bill at that time. This approach benefits the applicant because the applicant will receive details on the dates and types of review activities soon after the work is accomplished, instead of a final bill for all activities incurred over a year or more before billing. The periodic billing procedure benefits the Department by bringing in the necessary level of fees to cover its costs once the review time spent on a project exceeds the initial fee amount. Depending on the length of time and the amount of review time necessary to complete the project, the Department may send more than one periodic bill to an applicant before the final billing. If the initial fee is not exceeded, the bill will show a pending credit. The bills will include the total number of hours of review and the effective hourly rate; a description of each review-related cost, if any; the total amount of the fees due and paid and the maximum fee for the project; and the date and description of each activity performed. Travel time was previously listed separately on the invoice, but because travel time is not a billable activity, it will no longer be listed in the invoice.

This Section also specifies that the Department will bill for fees for annual reclaimed water inspections after the final inspection report is prepared.

**R18-14-106. Reconsideration of the Bill: Appeal Process.** This Section has been amended to include periodic billings in addition to the final billings. Bills are appealable at the time of the billing and any fee appeal must be submitted to the Department by the due date for payment printed on the bill or within 35 days of the date for the invoice, whichever is greater. The Department currently sets the due date 35 days from the date that the invoice is printed. Thirty-five days should provide the applicant adequate time to develop and file a written request for reconsideration with the Director. In addition, the time allotted to respond to requests for reconsideration has been increased to 20 working days.

**R18-14-107. Effect on County Fees.** The provisions in this Section have not changed.

**R18-14-108. Review of Fees.** This Section is no longer relevant and has been deleted. Requirements for Department reporting are included under A.R.S. § 49-241.02.

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

None

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

Not applicable

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

This rulemaking revises and establishes fees for the aquifer protection permit and direct use of reclaimed water permitting programs, under Title 18, Chapter 9, Articles 1, 2, and 3 and Title 18, Chapter 9, Article 6 and 7, respectively, and subdivision approvals.

Since FY97, water quality protection service revenues have been about 43.4% less than the Water Permits Section's WQFF budgeted expenditures. Because the state is not allowed to operate under a deficit and the fee fund revenues fell short of budgeted levels, the Department had to redirect certain staff to work on other state and federally funded projects so that actual expenditures were far lower than budgeted levels. The Department implemented permit efficiencies and process improvements and plans to continue to implement additional changes that will significantly improve the processing times for water quality protection services. The Department estimates that the changes to the maximum fees, if implemented for permit actions issued between FY96 - FY99 would have recovered approximately \$200,000 for individual permits on a \$49 per hour rate. The shortfall has been so large, that additional adjustments must be taken.

This rulemaking addresses the remaining shortfall by charging \$61 per hour for review hours, charging flat rate fees for general permits in lieu of the hourly rate fee or no fee, charging for additional water quality protection services, and billing on a more frequent basis.

The \$61 hourly fee rate has been calculated in the following manner. The expenses are based on all current staffing positions because all are needed to process the current and projected workload inventory of more than 80,000 hours of work. The Water Permits Section established annual performance measures relating to A.R.S. § 49-242.01 requiring the issuance or denial of Aquifer Protection Permits to existing facilities and to the licensing time-frame requirements for applications submitted after August 14, 1999. The Department estimates that the number of pending aquifer protection permit and reuse permit applications and projections for incoming work equates to more work hours than can be accomplished by the current staff – even if all positions are filled. Therefore, the FY01 workplan for Water Permits Section activities is based on the amount of work that can be accomplished based on the current number of authorized staff positions (17 project manager positions, 16 technical staff (engineers and hydrologists), five clerical positions, four supervisors, and one section manager) for water quality protection services within the Water Permits Section. The Department anticipates that the number of positions will not be increased for Water Permits Section staff. Positions and activities related to inspections and solid waste Aquifer Protection Permits are not used in the analysis because these hours and revenues are only a small percentage of the total.

The Department estimated total program related costs for Water Permits Section staff, which include salary and employee related expenses (ERE), such as fringe benefits; overhead costs, such as rent, utilities, postage, etc.; and other costs, including training, supplies, equipment, travel; and professional and outside services. Salary costs are derived by dividing staff into five position categories (project management, technical, clerical, supervisory, and section management) and multiplying the number of positions in each category by the maximum salary for that category. Maximum salaries are used for each position type because: 1) it is extremely difficult and arbitrary to calculate an average for the actual salaries because the salaries vary throughout the year and as soon as it is calculated, the average is incorrect; 2) the maximum figures are fixed numbers that may be obtained from Arizona Department of Administration; and 3) using the midpoint salary range will produce a salary that is too low because many Department employees are above the midpoint level, thus using average salaries based on the midpoint salary range will not recover enough fees. In addition, the Office of the Auditor General made several recommendations in a November 1999 Audit Report (No. 99-21) pertaining to improvements for the Aquifer Protection Permit program. The first recommendation was for the Department to continue working to upgrade professional positions within the Aquifer Protection Permit program as it sees necessary.

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The state increased annual salaries for clerical and hydrologist positions in January 1998 and October 1998, respectively. In addition, state agency engineering positions received a special market adjustment increase in annual salaries. The Department believes that providing better salaries is a major factor in hiring and retaining qualified staff. By using the maximum salary to develop the hourly rate, the Department is able to accommodate these financial adjustments.

The ERE cost is determined by multiplying the salary figure by the ERE rate. For FY00, the ERE was calculated at 21.1%, which is based on an average amount of benefits for employees. Overhead costs amount to 51.24% of salary and ERE costs. Other costs were estimated at \$2000/employee. Travel costs were estimated at \$500/employee position/year. A lump sum of \$70,000 was included for professional and outside services and equipment.

Based on those assumptions, the Department estimates total program related costs are \$4.5 million per year. Approximately \$1.9 million is paid for by general funding sources (\$1.2 million directly to the program and an estimated \$700,000 to cover overhead expenses associated with the personnel covered by general funding), therefore the program must generate fees of \$2.6 million. The hourly rate is derived by dividing the remaining expenses by the estimated number of hours for fee-based services completed within one year for project managers and technical staff. Using the assumption that was used to derive the current hourly rate, the Department assumes that project managers and technical staff work 62.4% of their time on billable projects or 1300 hours/year. The total billable hours for 33 staff positions is estimated to be 43,000 hours per year. The costs divided by total billable hours, rounded-up to the nearest dollar, equals \$61.

**A. *Estimated Costs and Benefits to the Arizona Department of Environmental Quality and other state agencies.***

The rulemaking will increase the Department's water quality protection service revenues to more closely match the budgeted costs for water quality protection services.

For the current staffing levels for project managers and technical staff, the Department estimates that approximately 43,000 hours will be associated with billable services for any one year. Of the 195 applications for individual Aquifer Protection Permits, significant amendments (major modifications), and clean closure pending as of September 1, 2000, the Department estimates that 46 applications will be completed by the end of the year or withdrawn. Of the remaining 149 pending applications, 39 (26%) are currently subject to a \$31.84 per hour rate, 97 (65%) are currently subject to a \$49 per hour rate, and 13 (9%) are subject to a flat fee or no fee. If there is no change in the hourly rate for pending projects, all positions are filled, and the fee caps are not reached, the Department would generate an estimated \$1.8 million, well below what is needed to recover reasonable costs. If the Department doesn't charge \$61 per hour for review hours after January 1, 2001 for these projects, there is a loss of revenue of approximately \$700,000.

Some of these revenues will be earned through the flat rate fees for general permits, determinations of applicability and subdivision approvals. The Department set the flat rate fees based on an estimate of time to process the applications for general permits and subdivision approvals. If the estimates were accurate, the estimated increase in revenue already accounts for the hours spent on flat rate fee services. The Department derives additional benefit because flat rate fees will be paid up front for general permit applications.

Also, the Department anticipates improved cash flow through quarterly billing. Its expenses to implement are minimal, and include increased postage and paper. The Department is developing computerized improvements to its invoicing program that will reduce costs associated with staff time to develop and process invoices. Based on the improvements, the Department expects no increase in staffing time and therefore will significantly benefit from implementing a quarterly billing process.

Other state agencies required to obtain a permit for a discharging facility covered by the UWQP or RWP rulemakings will not be affected because A.R.S. § 49-104(C) explicitly exempts state-owned facilities from paying fees for water quality protection services provided by the Department.

The benefits of these rulemaking changes are that the Water Quality Fee Fund will more fully realize its legislative purpose, which is to fund the actual billable costs of the program. The estimated additional revenues may be earned if the changes in this rulemaking are made and the following assumptions are true:

1. The estimated number of applications are received for processing,
2. The estimated number of applications qualify for general permits,
3. The estimated number of applications are processed and take the average number of hours to process,
4. All positions are staffed for the entire year (no vacancy savings, no turnover), and
5. Fees are paid on time for all billable hours.

A more probable scenario over the next few years is that the Department will experience some turnover, fewer applications will be completed, and some portion of the fees will not be paid. Because of the time involved with a rulemaking, the Department used assumptions that provide the most favorable situation for the regulated community. However, the relative accuracy of the assumptions will be determined with the implementation of the UWQP and RWP rules.

***B. Estimated Costs and Benefits to Political Subdivisions.***

Table B below compares the estimated review fees for a permit action under the current rule to the estimated review fees in the final rules. The estimated review hours and fees under the current rule are based on the estimated average number of billable hours to complete a project for permits issued under the Aquifer Protection Permit and/or Reuse rules between FY96 and FY00 at \$49 per hour. The estimated review hours and fees under the final rule are based on the estimated average time to complete the type of project under the UWQP or RWP rules at \$61 per hour or the appropriate flat rate fee specified in this rulemaking.

The information in Table B assumes that the applications are of average complexity, fairly complete, and no public hearing is necessary. These estimates are for fees for permits to operate. Costs for closing a facility are separate from permitting fees to operate. The Department estimates that fees for closure will generally be the same or less than the current fees for closure. Note that a previously permitted facility will not necessarily experience any impact due to this rulemaking. This rulemaking primarily impacts the costs associated with review of applications currently being processed by Department staff and applications that will be submitted in the future for a new facility or a modification to a permitted facility.

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<b>Table B</b>							
<b>Comparison of Estimated Review Hours and Fees under Current and Final Rules</b>							
Permit Type	Scenario	Type Change	Estimated Review Hrs and Fees under Current Rule (\$49/hr)		Estimated Review Hrs and Fees under Final Rule (\$61/hr)		% Change In Fee
			Hours	Fee	Hours	Fee	
<b>Wastewater Scenarios</b>							
flow > 1 MGD	a	Individual to Individual	178	\$8,722	150	\$9,150	4.9%
24000 gpd < flow < 1 MGD or package plants <sup>+</sup> w/ flow > 20000 gpd	b	Individual to Individual	163	\$7,987	145	\$8,845	10.7%
20000 gpd < flow < 24000 gpd	c	Individual to Type 4 General	163	\$7,987		\$1,800	-77.5%
package plants <sup>+</sup> with flow between 3000 gpd and 20000 gpd	d	General to Individual	30	\$1,470	80	\$4,880	232.0%
non-package plants with flow between 3000 gpd and 20000 gpd	e	Type 1 General to Type 4 General	30	\$1,470		\$1,800	22.5%
2000 gpd < flow < 3000 gpd	f	Type 1 General to Type 4 General	30	\$1,470		\$1,800	22.5%
flow < 2000 gpd (individual on-site)	g	Type 1 General to Type 4 General	30	\$1,190*		\$1,175	-1.3%
Mining Operation	h	Individual to Individual + Type 2 and/or Type 3 General permits	708	\$16,000*	675	\$41,175	157.3%
Industrial Operation	i	Individual to Individual	138	\$6,762	138	\$8,418	24.5%
	j	Individual to Type 3 General	138	\$6,762		\$1,500	-77.8%
Dry well Facility	k	Individual to Type 2 General	47	\$2,303		\$300	-87.0%
<b>Sewage Collection</b>							
Gravity System with 51 to 300 connections	l	ATC/AOC to Type 4 General	25	\$1,225		\$1,000	-18.4%
Forced main system with 51 to 300 connections	m	ATC/AOC to Type 4 General	35	\$1,715		\$1,300	-24.2%
Reclaimed water permit	n	Individual to Type 2 General	36	\$1,764		\$300	-83.0%
	o	Individual to Type 3 General	36	\$1,764		\$1,500	-15.0%
	p	Individual to Individual	36	\$1,764	36	\$2,196	24.5%

<sup>+</sup> Package plants = pre-fabricated, manufactured treatment works from UWQP rule.

\* These fees were limited by fee caps in the current fee rule. The fee under the current rule for scenario "g" is based on the following assumptions: ATC review = 20 hours at \$49/hour = \$980, but it is capped at \$700. AOC review = 10 hours at \$49/hour = \$490. Total fee is \$700 + \$490 = \$1190.

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The Department issued or denied 146 individual Aquifer Protection permits between FY96 and FY00 for sewage treatment and onsite wastewater treatment facilities. Of the 146 permits issued or denied, 131 were for billable permits to operate. Table C provides a breakdown of the total figure of wastewater permits by design flow and ownership.

<b>Table C</b>			
<b>Breakdown of Billable Wastewater Aquifer Protection Permits to Operate</b>			
<b>Issued FY96-FY00</b>			
Design Flow Criteria	Political Subdivision	Non-political Subdivision	Total
greater than 1 million gallons per day	23	4	27
24000 to less than 1 million gallons per day	34	58	92
20000 to less than 24000 gallons per day	0	1	1
3000 to less than 20000 gallons per day	3	8	11
less than 3000 gallons per day	0	0	0
	60	71	131

As identified by Table C, the Department expects most political subdivisions will fall under scenarios “a” and “b” and will experience slight increases in the permitting fees. Because the facilities that qualified for a general permit are not included in Table C, the Department evaluated the ATCs that were issued during FY99 and FY00. During FY99-FY00, the Department issued to political subdivisions 34 ATCs for wastewater treatment plant systems or onsite wastewater treatment facilities. Two were issued for package treatment systems with flow less than 20,000 gallons per day and 5 were issued for onsite wastewater treatment facilities of less than 20,000 gallons per day. Therefore, the Department expects a very small percentage of political subdivisions will fall under scenario “d” or “e” and therefore the impact of the change in fees to be minimal for political subdivisions.

The Department expects that fees for determinations of applicability and subdivision approvals will not have any impact on political subdivisions because most do not request a determination of applicability and are not developers of subdivisions.

Based on efficiencies from the changes in permitting rules, permit fees for the facilities owned by political subdivisions should slightly increase overall.

**C. *Businesses Directly Affected By the Rulemaking.* (Any facility that discharges or intends to discharge, such as a sewage treatment facility, including an on-site wastewater treatment facility; industrial operation; mining operation; drywell; and reuse or reclaimed water facility.)**

The hypothetical examples provided in Table B suggest how fees could change under this rulemaking. Although these examples are considered typical for the permit/approval types shown, actual costs may vary due to variations in application completeness, facility type, site condition, selected design, extent of public involvement, and other factors.

As indicated by the breakdown in Table C, the majority of private (non-political subdivisions) sewage treatment facilities permitted between FY96 and FY00 were designed to treat less than 1 million gallons per day. As identified by Table B, the Department expects most private sewage treatment facilities will fall under scenario “b” and will experience a slight increase in the permitting fees. The Department issued 51 ATCs for private sewage treatment facilities or private onsite wastewater treatment facilities during FY99 and FY00. Sixteen of the designs involved a pre-fabricated treatment works, however, only 2 of those 16 were for flows of less than 20,000 gallons per day. Based on that data, the Department estimates that a very small number of the private sewage treatment facilities will fall under scenario “d” and therefore the increase in fees should not have a significant impact. For those facilities which do fall under scenario “d”, the Department believes the benefits to the environment and homeowners by guaranteeing financial and technical capability to operate these facilities outweighs the increase in permitting costs. The Department estimates a moderate increase in fees for facilities falling under scenario “e.” As many as one third of the applicants may fall under this scenario.

As indicated in scenario “h” in Table B, most mining operations currently pay the maximum fee (\$16,000) for an individual permit. Under this rulemaking, a typical large mining operation will pay approximately \$41,000 in permitting fees for the individual permit, even if some facilities within the site can qualify for a general permit. The example indicates an increase of 157.3% in fees. The significant increase for mining operations is due to the increase in the maximum fee under A.R.S. § 49-241.02 and the increase in the hourly rate fee. In most situations for mining operations, the Department issues an “area-wide” permit for the operation that may include between 3 and 100 facilities. The area-wide permitting approach is a benefit to the mining facilities because there is a savings based on including all facilities in one permit instead of issuing separate permits for each facility. As described earlier, fees for mining operations commonly exceeded the historic fee cap and the projected fees reflect the more realistic cost of permitting.

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An individual aquifer protection permit for a typical industrial operation costs approximately \$6,700. Assuming that a fairly complete application is submitted and no public hearing is necessary, a 24.5% increase in fees may be incurred due to the hourly fee rate increase.

The Department expects that many industrial operations currently subject to individual permit requirements will qualify for a Type 3 General Permit under the UWQP rulemaking. The permitting fee will then be reduced by an estimated 78% and annual registration fees will no longer apply to the operation. Even with the renewal fee for a Type 3 General Permit (if no change occurs) the facility will be able to operate for more than 20 years (4+ general permit cycles) before the general permit fees will equal the estimated individual permit fee. The cost benefit may be even greater if the general permit does not require regular reporting to the Department as required in an individual permit.

The impacts on an applicant qualifying for a Type 2 General Permit are demonstrated in scenario "k" using a drywell facility. The Department, on average, charged \$2300 for an individual permit for a drywell facility. The individual permitting process takes between 6-12 months and requires some monitoring and reporting that imposes additional costs for the life of the facility. Because of the nature of the operation, most of these facilities fall below the flow volume of discharge required to pay an annual registration fee under A.R.S. 49-241.02. The Department anticipates that many of these facilities will qualify for a Type 2 General Permit under the UWQP rulemaking. This rulemaking establishes a fee of \$300 for issuing a Type 2 General Permit that must be renewed after five years for one dry well. Renewal fees are \$300 if changes occur at the facility or \$120 if no changes occur at the facility. Even if the applicant has to supply the same permit information to qualify for a general permit (as was required for an individual permit) the applicant benefits by only having to notify the Department before permit issuance. The applicant will be able to operate the facility for more than 30 years under a general permit before matching the permit fee for an individual permit for a typical drywell facility. If the site includes 10 drywells, the fees would be \$1200 for the initial permits and \$480 for renewals if no changes for each of the drywells. At this rate, a facility with 10 drywells would be able to operate for approximately 15 years before the fees for general permits would exceed the estimated fee for the individual aquifer protection permit. The applicant will be responsible for determining the most economical means for permitting based on site-specific considerations.

Under the current reuse rules, a typical reuse facility permitted for five years costs approximately \$1800. Under the RWP rulemaking and accounting for the increase in the hourly fee rate, the fee for a Reclaimed Water Individual Permit increased by 24.5%. The Department estimates that permitting fees for a typical reclaimed water facility that qualifies for a Type 3 Reclaimed Water General Permit will decrease by 15% for the initial permit. The reduction in costs when comparing the renewal fees (an individual permit to a general permit) will show a similar if not greater savings considering that time for public noticing the renewal is not required for the general permit. Also, the Department expects that a majority of Reclaimed Water General Permit applicants will qualify for a Type 2 Reclaimed Water General Permit. Applicants qualifying for a Type 2 Reclaimed Water General Permit may realize up to an 83% savings in permitting fees. The overall impact is estimated to be neutral because the Department expects that many applications for individual permits will shift to general permits which have the lower fees.

The rulemaking also includes flat rate fees for determinations of applicability (DOAs) and subdivision approvals. With the additional clarity in the UWQP rules, the Department expects fewer entities to request a determination of applicability. Since most of the requests will result in a determination that a permit is needed, the \$100 fee is not an additional fee, but will be applied to the permitting fee (flat rate or hourly rate). The exception will be for those facilities that meet the criteria for a Type 1 General Permit, which will be subject to the \$100 fee. The Department does not expect to receive many DOA requests for facilities that could qualify for one of the new Type 1 General Permits under the UWQP or RWP rules, and this fee should have a minimal impact.

This new fee impacts developers who are required to obtain subdivision approval. The new fee covers review time for this service, which the Department has provided since its inception, and helps to reduce the cost of the program by reducing the amount of non-billable services.

From the applicants' standpoint, most fee reductions will be realized from the shift from individual permits to general permits, even with the renewal fees for a general permit. Many applicants will be able to obtain their general permits in a shorter period of time which will vastly increase the predictability of their costs. The dollar savings could be substantial for applicants since as much as 1/2 of the water quality protection service permit inventory (pending projects) may be processed as general permits once the UWQP rulemaking becomes effective on January 1, 2001. The Department expects that the total amount of staff hours for processing individual permit applications will drop sharply with the implementation of the new general permits. The Department believes that the fees reflect the reasonable and fair cost of providing water quality protection services and that the flat rate fees for general permits and the reduction in initial fees coupled with the simplified permitting process in the UWQP and RWP rulemakings should reduce the impact to many applicants.

Private and public employment of this state are not directly affected by the implementation and enforcement of this proposed rulemaking.

***E. Estimated Costs and Benefits to Consumers and the Public.***

**Residents using On-site Wastewater Treatment and Disposal.**

According to records entered into the Department Water Quality Database, during FY97- FY00 the Department issued approximately 200 ATCs for individual onsite wastewater systems of less than 2000 gallons per day using alternative treatment technologies in non-delegated counties (27% for systems in Navajo County, 21% for systems in Santa Cruz County, 42% for systems in Yavapai County (primarily within the City of Sedona) and 9% for systems in Cochise, Coconino, Gila, Pinal and Yuma Counties combined). Based on estimates from the Counties, approximately 425 alternative systems are issued annually by the Counties. Based on that estimate, the Department issues approximately 10.5% of alternative systems in Arizona.

Fees for an ATC and an AOC for an individual on-site wastewater treatment facility used for a residential home have been approximately \$1190 as shown in scenario "g" of Table B. Most of the designs for these facilities will have to be consistent with requirements in more than one Type 4 General Permit specified in the UWQP rule-making. Scenario "g" assumes that the design for a new application will use three different Type 4 General Permits (a septic tank, pressure distribution system, and engineering pad) along with one alternative design feature. The fee for the engineered pad general permit is \$600, the greatest of the three general permits. Adding \$250 each for the other two general permits and \$75 for the alternative design feature, the total fee for this scenario would be \$1175. Based on those assumptions, the Department estimates no change in permitting costs for individuals.

The Department will be responsible for issuing Type 4 General Permits for applications that do not fall under County Delegation agreements. Table D provides the current expectations for delegation authority to the various counties in Arizona. The Department estimates that state-wide, approximately 13,000 conventional septic systems are approved per year. The Department assumes the following:

- None of the conventional septic systems in Pima will need alternative systems for nitrogen reduction because of the county ordinance requiring a minimum 1 acre lot size.
- 10% of the non-Pima County conventional systems will need alternative systems because of site-specific constraints.
- An additional 5% of the non-Pima County conventional systems will need denitrification due to the Unified Water Quality Permit rule (UWQP) rule for onsite wastewater systems with flow less than 3000 gallons per day.
- Within Maricopa, Mohave, Pinal and Yavapai Counties, a percentage of lots needing alternative systems (50% for Maricopa and 25% for the others) will connect to sewer systems instead of relying on alternative onsite wastewater treatment systems.

Based on those assumptions, the Department estimates that as many as 1300 additional systems per year state-wide may need some type of alternative system. Based on the expected level of work to be delegated to the Counties, the Department estimates it could receive between 130 and 340 additional applications for Type 4 General Permits (less than 3000 gallons per year) in one year or 10% and 26% of the additional alternative onsite applications for one year across the state.

For conventional systems which are handled by all Counties currently, the fees range between \$120 and \$250 per system not including site inspections. For alternative systems handled by the delegated counties, fees range between \$300 and \$1800 with an estimated average of \$900 per system.

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Table D				
Anticipated Categories for Delegation by County				
County	Category of General Permit or Type of Systems			
	Septic Tanks (GP4.02)	Systems less than \$12,500	Limited Number of Alter- native Systems	All Alternative Systems (GP4.03 - GP4.23)
Apache	X		X	
Cochise	X			
Coconino	X			X
Gila	X			X (except for GP4.23)
Graham	X			
Greenlee	X			
LaPaz	X	X		
Maricopa	X			X
Mohave	X			X
Navajo	X		X	
Pima	X			X
Pinal	X			X
Santa Cruz	X			
Yavapai	X			X
Yuma	X			X

The \$50 transfer fee applies to any onsite system which is transferred even if the system was built before the effective date of the rule. The Department estimates that of 400,000 lots with conventional or alternative systems in the state, a property is transferred once every 10 years, therefore 40,000 transfers occur annually in Arizona. Therefore, the impact of the transfer fee would be \$2,000,000 which is applied across the 15 counties. The benefit from this transfer fee is that it allows counties to:

- keep an accurate record of the general permitted facilities,
- identify systems with previously unseen deficiencies that might adversely impact public health and water quality,
- perform adequate compliance assistance, where necessary.

The transfer also enhances the disclosure process and therefore protects buyers from problems that normally go unseen.

**Consumers and the Public.**

From the consumer's perspective, if permitted entities bear additional costs or realize savings, these entities may pass the costs or savings on to the consumer and the public through products or water quality protection services. There is no way, however, to predict whether these costs or benefits will be passed on or what the costs or benefits may be for each facility.

**F. Estimated Costs and Benefits to State Revenues.**

This rulemaking should have no impact on state general funding revenues.

**Requirements of A.R.S. § 41-1035.**

1. Establish less stringent compliance and reporting requirements for small businesses.

Changes through the UWQP and RWP rules provide the primary means for reducing the impact on small businesses. Additional features to reduce the impact on the small businesses have been added to this rulemaking. These features include:

1. Excluding minor permit amendments requests specified in R18-9-A211(C)(1), (2), and (3) from fees;
2. Applying the \$100 DOA fee to the total fee for a general permit;
3. Specifying a lower fee for on-site subdivisions having 40 lots or less; and
4. Discounting general permit fees, if more than one general permit is used in a design or if more than one facility on a site qualifies for the same general permit.

2. Establish less stringent compliance or reporting schedules or deadlines for small businesses.  
Not applicable
3. Consolidate or simplify the rule's compliance and reporting requirements for small businesses.  
Not applicable
4. Establish performance standards for small businesses to replace design and operational standards.  
Not applicable
5. Exempt small businesses from any or all requirements of the rule.

The Department is explicitly authorized to exempt only state-owned facilities from the requirements of this rule-making. The Department estimates that 35% of its pending non-political subdivision applicants could qualify as small businesses. Exemptions for small businesses could cause a significant hardship on the Department. Because small businesses make up a significant percentage of the facilities for which the Department provides the services, it would not be feasible for the Department to make exemptions from fees for small businesses and still generate sufficient revenues to cover the reasonable and necessary costs of the program.

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

This rulemaking has been edited to comply with the clear, concise, and understandable requirement under A.R.S. 41-1052(C)(4). The rules have been reformatted and, in some cases, subsections moved to more appropriate locations. The section numbers were changed to reflect the structure in the current rule.

**R18-14-101. Definitions.** Only terms specifically relating to fees and how they are determined remain in this rule-making. Terms dealing with permitting requirements or understood within the context of the UWQP or RWP rule-makings have been deleted as explained below.

The proposed Section defined the term "ADEQ," to mean the Arizona Department of Environmental Quality. The term "department" is already defined in A.R.S. § 49-201(9) as meaning the department of environmental quality. "ADEQ" is unnecessarily defined, is no longer used in this rulemaking, and has been deleted.

The terms "annual reclaimed water inspection," "determination of applicability," "dry well," "onsite wastewater treatment facility," "product review," "Provisional Verification of General Permit Conformance," "Reclaimed Water General Permit," "Reclaimed Water Individual Permit," "reuse permit," "sewage," "sewage collection system," "sewage treatment facility," "subdivision approval," and "Verification of General Permit Conformance," are defined in the permitting rules, applicable statutes, or are understood in the context of the permitting requirements. Defining these terms in this rulemaking is unnecessary.

The term "gpd" relates to volume of water discharged per day. This acronym has been spelled out throughout the rule-making and the term has been deleted. The term "WQPS" has been changed to "water quality protection service." The definition combines the services for individual and general Aquifer Protection Permits and individual and general reclaimed permits into one clause; it clarifies that the Department considers reviewing information submitted to satisfy the closure conditions of a permit to be a water quality protection service; and the definition breaks out the closure plan review service as a separate service, as is included in the current rule. This applies whether the conditions are specified in a general permit or individual permit.

The terms "APP," "approval of construction," "approval to construct," "approved" or "approval," "area-wide APP," "centralized on-site wastewater treatment facility," "closure APP," "closure without an APP," "ERE," "GP," "General APP," "individual on-site wastewater treatment facility," "Labor," "NPDES permit," "operating costs," "operating costs rate," "other operating costs," "permit transfer," "reuse permit," "Type 1 GP," "Type 2 GP," "Type 3 GP," "Type 4 GP," "U.S. EPA," and "workplan hours" are no longer used in this rulemaking and have been deleted.

The term "review-related costs" has been added.

**R18-14-102. Hourly Rate and Flat Rate Fees.** All information relating to how fees are determined have been moved to this Section and the Section title changed to describe this additional information.

Based on comments received on the proposed rule, an exemption is established in subsection (A) for minor permit amendments specified in the UWQP rulemaking under R18-9-A211(C)(1) through (C)(3).

Subsection (B) includes the hourly rate fee determination previously covered under R18-14-103. The proposed rule would provide for an automatic recovery of the impacts of inflation, increases in labor, rent, utilities and other direct, billable, program costs. Due to public comment which focused on the lack of common definitions of the formula components throughout all Department programs, and a desire by stakeholders to work with the Department to achieve agreement, the Department has withdrawn the hourly rate administrative formula. The Department will reassess the hourly rate administrative formula through meetings and discussions with stakeholders.

All references to the hourly rate formula or its components and the adjustment process have been removed from this rulemaking. The \$61 per hour rate, however, was specified in the proposed rulemaking and will apply after the effective date of this rulemaking.

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Using the components under A.R.S. § 41-1025(B) to determine whether the change from the formula to a standard hourly rate of \$61 per hour makes the rule substantially different from the proposed rule, the Department concludes the following:

1. Removing the formula and replacing it with a standard hourly fee rate of \$61 per hour does not modify who is affected by the rule. All persons who are affected by the proposed rulemaking are still subject to the rule.
2. Removing the formula and replacing it with a standard hourly fee rate of \$61 per hour does not modify the subject matter of the rule, rather it simplifies the information. Therefore, the subject matter of the rule or the issues determined by the rule are the same as the subject matter or issues involved in the proposed rule.
3. Removing the formula and replacing it with a standard hourly fee rate of \$61 per hour does not modify the effects of the proposed rule, because the Department listed the \$61 per hour rate in the proposed rule and stakeholders expected that any annual adjustment would increase the hourly fee rate. Therefore, maintaining the standard \$61 per hour rate provides more certainty to all applicants subject to the hourly rate fee without impacting the Department. The effects of the final rule differ from the effects of the proposed rule only in that the hourly rate fee would not be adjusted annually.

Because of the above considerations, the Department concluded that removing the formula and applying the proposed \$61 per hour rate as a standard hourly rate fee until the next rulemaking does not make this rule substantially different from the proposed rule.

The proposed R18-14-102(C)(1) has been broken out into two subsections in the final rule. The last clause “ADEQ may waive part or all of the costs for additional pre-application time” has been deleted. Upon further review the Department realized that it did not have the authority for this waiver. The Department does encourage pre-application meetings, however, as one means of ensuring that program rules are understood and that applications are complete and adequate when they are submitted to the Department. Both outcomes will, in most cases, help to reduce the amount of time needed for the Department to review the application. The Department will be offering numerous workshops on the final rules to aid in reducing time needed for pre-application conferences.

Subsection (C) specifies all services subject to a flat rate fee. The flat rate fee for subdivision approval has been changed to make clear that the fee depends on whether the treatment and disposal are provided outside the boundaries of an individual lot or within the boundaries of an individual lot. The fee for subdivision approvals for subdivisions of less than 150 lots using off-site treatment and disposal has been reduced to \$300 because these subdivision approvals take closer to 5 hours to review instead of 8 hours. To accommodate small subdivisions with 40 lots or less using onsite wastewater treatment within the boundary of each individual lot, the proposed \$1000 fee has been reduced to \$500. Additional language was added to clarify that subdivision approvals for subdivisions of more than 150 lots are granted in phases and the appropriate fee applies to each phase. (The phased approvals for large subdivisions was specifically covered in the proposed Preamble.)

Proposed subsection (D)(2) regarding the adjustment of flat rate fees by rule is unnecessary and has been deleted. Any adjustments to these fees will be made by rule and therefore, a specific requirement to adjust the flat rate fees by rule is not necessary.

The general permit fees specified in R18-14-102, Table 1 (previously Table 3) have been referenced and moved to this Section. The permit transfer fee proposed in R18-14-102, Table 1 is the same for all permits, therefore, the transfer fee column has been removed from R18-14-102, Table 1 and the fee requirement moved to the flat rate fees section. Language was added to clarify that transfer fees are also subject to the “multiple permit discounts” provided in subsection (C)(6)(c). Additionally, for Type 4 General Permits, the transfer fee has been changed to a flat fee of \$50 in subsection (C)(7)(c) even if two or more Type 4 General Permits are used in the design because during a transfer of ownership for the facility, it is treated as one facility although more than one general permit may have been used in the design.

Based on comments received from stakeholders that the renewal fee was too high or should be deleted, the renewal fee for Type 2 General Permits proposed in R18-14-102, Table 1 has been reduced to \$120 and is based on estimating two hours for review, if no changes occur at the facility, and a portion of time for an inspection at the site during the permit duration.

The general permit fee information proposed in R18-14-106 has been moved to subsection (C). The Department deleted the proposed R18-14-106(D) because the Department could appear to be arbitrary if adjustments are made for scenarios outside of those specified in subsections (C)(6)(c), (C)(7)(b), and (C)(7)(c). The Department will collect data regarding the adequacy of each flat rate fee and if necessary propose changes within the next five years.

The new Subsection (D) includes the request for water quality protection service exclusions previously covered under fee assessments and collection under R18-14-107(B) and (G).

**R18-14-103. Initial Fees.** This Section was proposed as R18-14-104. The proposed table of initial fees for AOCs, ATCs and time extensions was deleted because ATCs and AOCs will no longer apply after December 31, 2000 and the effective date of this rulemaking. Subsections (A) and (B) have been combined and (C) renumbered to (B). The new Subsections (A) and (B) have been edited for clarity and understanding.

**R18-14-104. Maximum Fees.** This Section was proposed as R18-14-105. This Section has been rewritten to minimize duplication with statutory language. Table 2 has been deleted because ATCs and AOCs will no longer apply after December 31, 2000.

**R18-14-105. Fee Assessment and Collection.** This Section was proposed as R18-14-107. R18-14-107(B) and (G) has been moved to R18-14-102.

In subsection (A)(1), the reference to employee has been changed to position type to simplify the invoice while still providing the applicant with more details than the current format.

**R18-14-106. Reconsideration of a Bill: Appeal Process.** This Section was proposed as R18-14-108. The Section has been amended to clarify that any fee appeal must be submitted to the Department by the payment due date printed on the bill or within 35 days from the date that the invoice is printed, whichever is greater. Currently, the Department sets the payment due date 35 days from the date that the invoice is printed to provide extra time for any variance in mail delivery. Thirty-five days should provide the applicant adequate time to develop and file a written request for reconsideration with the Director.

**R18-14-108. Review of Fees.** This Section was proposed as R18-14-110. The proposed language has been deleted and the current rule language repealed. The proposed provisions were included as a means of evaluating the appropriateness of the hourly rate formula and the maximum fee formula since adjustments will be made administratively instead of by rulemaking. The proposed section has been deleted because the hourly rate formula has been removed from the rulemaking and a requirement to review the maximum fees is already provided in statute at A.R.S. § 49-241.02(E). The current rule language no longer applies and is therefore repealed.

Grammatical and clarification rule changes throughout the rule package were made at the request of G.R.R.C. staff.

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

The Department scheduled three oral proceedings on August 1, 2, and 3, 2000 and accepted written comments on the proposed rulemaking through August 5, 2000. The Department did not receive any comments at the proceedings held on August 1 and 2, 2000. The Department received four comments from two commenters during the oral proceeding held on August 3, 2000. The commenters also submitted the comments in writing to the Department. In addition, the Department received written comments from four other entities. A summary of the comments from the oral proceeding and all written comments follows.

**General Comments.**

**Comment:** The Department failed to comply with A.R.S. § 41-1055(B) by not incorporating “specific methods to reduce the impact on small businesses and consumers” in the proposed rule and failed to outline the benefits to the additional fees such as the permit renewal and the property transfer requirements for every house or business sold in the state that has an on-site wastewater system. Alternative programs must be addressed to comply with this state law. Establish an alternate program that permits the small business or consumer to request a private engineering firm review the plans. This program should be in addition to the ADEQ program so that comparisons can be made for the time and cost impacts to consumers.

**Response:** The Notice of Proposed Rulemaking contains only a “preliminary” economic, small business, and consumer impact of how stakeholders will be economically affected. The publication of a notice of proposed action under A.R.S. § 41-1022 specifies that the notice shall include a preamble. The “preamble” definition under A.R.S. § 41-1001(14)(a)(v) includes “[t]he economic, small business, and consumer impact summary, or in the case of a proposed rule, a preliminary summary and a solicitation of input on the accuracy of the summary.” The final economic impact statement addresses all of the preamble criteria specified in A.R.S. § 41-1055(B). Because this rulemaking addresses only fees, the analysis addresses the impact that the fees have on small businesses and not the program requirements, such as the permit renewal or transfer requirements. The suggestion for establishing an alternative program that permits small businesses to request a private engineering firm review the plans is outside the purview of this rulemaking.

**Comment:** ADEQ should issue permits at reduced costs if a registered professional engineer instead of the applicant or sanitarian prepared the plans.

**Response:** For Type 4 General Permit applications, the flat rate fees are based on an estimate of how long it will take the Department to complete a design plan review. Fees for simple designs are lower than fees for complex designs because less review time is required. The Department realizes that complex designs will require a knowledgeable person to complete the plans, but the UWQP does not specify that the applicant must use an Arizona-registered Professional Engineer. Over the last four years, the quality of applications for approvals to construct from registered professionals varied considerably. Therefore, a reduction due to the registration is not appropriate. The Department will be collecting data on the number of hours to complete the general permit applications and will reevaluate the fees for the projects within five years according to the 5-year review process. No change has been made to the rule.

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**Comment:** A commenter appreciates the extensive stakeholder involvement sought by ADEQ in the development of the proposed rules. The majority of issues appear to have been worked out in a manner acceptable to both the Department and its stakeholders. The commenter genuinely appreciates the effort that the Department in general has invested in developing the proposal and in listening to and attempting to address the questions and concerns raised by various stakeholders throughout the process.

Another commenter appreciated the opportunity to participate in the ADEQ Stakeholder Group meetings regarding the Water Quality Fee Fund (WQFF).

**Response:** The Department believes that the stakeholder model is an effective means for developing rules. The Department appreciates the comments and the participation from all stakeholders.

**Comment:** Although the discussions have been productive in terms of clarification and understanding of the positions of ADEQ and the regulated community, they believe additional work needs to be done.

As ADEQ programs move to become self-supporting financially by fees, what, if any, is the offset to the general fund appropriation for ADEQ? Or, if ADEQ is to continue to receive general fund appropriations, what cost does the appropriation fund? These distinctions need to be determined to get an accurate account for the fee structure.

Statutory authority does not clearly define what are the costs, how those costs are defined, and what limitations, if any, are imposed on ADEQ in recovering their costs of the program.

Provide justification in the final rule preamble explaining the use of maximum salaries for each position type, rather than average salaries.

Provide a sample calculation in the final preamble showing how the hourly rate is derived, especially identifying the assumptions for time spent on permit/fee appeals and time spent on permits for which fees cannot by statute be charged (i.e., permits for state-owned projects). This would also make it easier to compare FY2001 rates to future changes in that rate, by making it easier to identify the particular variables in the equations that may change in the future.

**Response:** The above comments relate to the hourly rate formula. The Department acknowledges that the terms used in the hourly rate formula are not explicitly defined in statute. By proposing a formula that includes recovering “operating costs”, the Department did not intend to move the program for water quality protection services to a self-supporting fee structure. Based on the fact that the terms need to be defined consistently across all Department programs, the Department is withdrawing the hourly rate formula and all components from the rulemaking. The Department will use the \$61 per hour rate proposed in the Notice of Proposed Rulemaking and work with stakeholders to provide better definitions. The justification for using maximum salaries to derive the hourly rate is provided.

**Comment:** Include a provision that minor (insignificant) modifications (i.e., contact name change, address change, phone number change) are provided at no charge.

**Response:** The Department agrees that a fee should not be charged for some minor modifications. R18-9-A211(C) under the final UWQP rulemaking, has been reformatted to group these particular minor modifications at the beginning of the subsection. The following revision under subsection R18-14-102(A) explains that a water quality protection service relating to a minor amendment described in R18-9-A211(C)(1), through (C)(3) will be provided at no charge:

- A. ~~ADEQ~~ The Department shall assess and collect fees an hourly rate fee or a flat rate fee for any water quality protection services service including any site visits except for minor permit amendments specified in R18-9-A211(C)(1), (C)(2) and (C)(3).

**Comment:** The statement that the original statutory maximum fees “were set artificially low for the mining sector” seems to imply that the fees were deliberately set at a level below ADEQ’s actual costs. It is not accurate to imply that fees were set deliberately low in 1992 in order to provide some benefit specifically to the mining industry.

**Response:** The Department did not intend to imply that the 1992 legislative changes were written specifically to provide the mining industry a financial boon. The statement has been rewritten.

**Comment:** The statutory maximum fees (\$16,000 per permit and \$25,000 per site) were in effect until July 18, 2000 (the effective date of HB 2418).

**Response:** Part of the legislation under HB 2418 included fees that are subject to Proposition 108. The 2000 Legislative Manual states that all bills subject to Proposition 108 are effective immediately upon the Governor’s signature. HB 2418 was signed on April 28, 2000, therefore, this signature date is the effective date of the A.R.S. § 49-241.02 portion of HB 2418.

**R18-14-101. Definitions.**

**Comment:** Revise the definition of “complex modification” as follows: “a change in process chemicals used or other alterations to discharge characteristics such that BADCT reevaluation is necessary in accordance with the terms of the permit...a submission of data indicating contamination, or identification of new discharging facilities, or previously unidentified pollutants that require reevaluation of BADCT in accordance with the terms of the permit...”

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Also, delete the last condition of the “complex modification” definition dealing with clean closure or clarify that the condition only applies to modifications that result in a facility not being able to meet the clean closure definition. (The proposal to consider modifications to permits for facilities that cannot meet the clean closure requirements of A.R.S. § 49-252 as “complex modifications” could be interpreted to mean that any modifications to such facilities, no matter how small, would be viewed as “complex modifications.”)

**Response:** The condition “a change in process chemicals used or other alterations to discharge characteristics such that BADCT reevaluation is necessary” has been deleted and the other two issues addressed in subsections (1)(b)(v) and (1)(b)(vi) of the definition. The term has been revised as follows:

1. *“Complex modification” means:*
  - a. *A revision of an individual Aquifer Protection Permit for a facility within a mining sector as defined in A.R.S. § 49-241.02(F)(2); and*
  - b. *A revision of an individual Aquifer Protection Permit for a facility within a dry well, industrial, or wastewater sector due to any of the following:*
    - i. *An expansion of an existing pollutant management area;*
    - ii. *A new subsurface disposal including injection or recharge, or new wetlands construction;*
    - iii. *Incorporation of an extensive compliance schedule into a permit;*
    - iv. *A discharge to the waters of the United States with the potential to impact the downgradient protective uses;*
    - v. *Submission of data indicating contamination, or identification of a discharging facility or pollutants not included in previous applications that requires reevaluation of BADCT; or*
    - vi. *Closure of a facility that cannot meet the clean closure requirements of A.R.S. § 49-252 and requires post-closure care, monitoring, or remediation.*

**Comment:** Clarify the definition of “operating costs” so that the extra air conditioning cost is only required when ADEQ schedules public meetings in the evening.

Explain how the proposed definition of “operating costs” relates to the “operating cost rate” and whether the definition is intended to limit or define the scope of the costs considered by ADEQ when calculating the annual rate that is ultimately approved by EPA.

Clarify precisely which staff are included for purposes of determining operating costs, as well as what percentage of their salary, benefits and other costs are included in the calculations and explain how this component in particular is consistent with the ban on indirect cost recovery.

**Response:** As mentioned in a response to general comments, the hourly rate formula along with the definition for “operating costs” have been removed from the rulemaking.

**Comment:** Delete the proposed definition of “other operating costs” and remove the concept from its hourly rate formula OR clarify that “other operating costs” includes costs for supplies, fees for outsourced training courses, motor pool, and equipment as long as such costs can be identified specifically with the performance of a specific water quality protection service.

**Response:** As mentioned in a response to general comments, the hourly rate formula along with the definition of “other operating costs” have been removed from the rulemaking.

**Comment:** Explain why a new definition of Dry well is proposed for purposes of these regulations. Delete the phrase “but that receives or has received other unauthorized wastewater discharges such that groundwater may be impacted” from the proposed definition of “drywell.” The proposed language is overly broad (it is unclear what is meant by “other unauthorized wastewaters;” moreover, the phrase “such that groundwater may be impacted” is very subjective and could apply to any unauthorized discharge, no matter how minor or inconsequential) and could be used to expand ADEQ’s regulatory jurisdiction over dry wells. The added language regarding the receipt of other unauthorized wastewater discharges such that groundwater may be impacted is inconsistent with current and proposed APP regulations and is beyond ADEQ regulatory authority with respect to dry wells.

**Response:** The Department’s regulatory authority over drywells is very broad. By further clarifying the statutory definition, the Department specifically addressed “other unauthorized wastewaters” not covered under A.R.S. § 49-250(B)(23). However, the Department will rely on current statutory authority and the term has been deleted.

**Comment:** If the definition of “owner or operator” is not used, then it should be deleted.

**Response:** The term “owner or operator” was used in the proposed R18-14-107 and is used in the reformatted R18-14-102(D)(2) and R18-14-105(B). No change has been made.

**Comment:** ADEQ does not currently have the authority to issue NPDES permits, although it is considering seeking primacy to issue such permits. The proposed rules do not include any further reference to NPDES permits, including the maximum fee section. The reference to NPDES permits in the definition of “WQPS” should be removed.

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**Response:** The Department agrees. The term has been deleted with the reference to it in the definition for “water quality protection services.”

**Comment:** Specify “review-related costs” or remove phrase from the rule.

**Response:** The description for “review-related costs” has been deleted from the proposed R18-14-102(C)(2) and defined under R18-14-101.

**R18-14-102 Rate Determination and Fees.**

**Comment:** The hourly rate should reflect the actual salaries plus benefits and not include other operating costs.

Provide additional explanation in support for its proposal to recover the full range of “operating costs” and “other operating costs” (as defined in the proposed rule) from Aquifer Protection Permit applicants. Additional explanation of the budget process and history on this topic, possibly even including written correspondence from JLBC or other legislative sources on this issue, would be helpful in supporting the manner in which ADEQ is interpreting the ban on recovery of indirect costs in the Aquifer Protection Permit program.

Delay finalizing the proposed water quality fee rule until various ADEQ divisions and interested stakeholders can develop an appropriate approach to assessing fees for direct and indirect costs. If the Department proceeds to finalize this rule as proposed, this will create an internal inconsistency in the agency and among its various fee rules. In addition, if the water quality fee rule is finalized as proposed, the fee rule would be subject to disapproval by the Governor’s Regulatory Review Council since the Council is statutorily prohibited from approving a rule package if the rule is “illegal, inconsistent with legislative intent or beyond the agency’s statutory authority.” A.R.S. § 41-1052(C)(5).

**Response:** The Department did not intend to recover the “full range” of “operating costs” and “other operating costs”, just the components of those costs associated with program hours. As mentioned in a response to general comments, the hourly rate formula and all components have been removed from the rulemaking.

**Comment:** Require an annual revenue review to compliment the annual ADEQ workplan and publish it on the web page. The report should list each type of permit, the number of permits issued, the total man-hours incurred to perform the reviews, the 75th percentile for the review hours, the charges billed, the charges reduced by appeal, and the funds collected. Specify a publishing date in the rule so that ADEQ meets a deadline.

**Response:** The Department will make the information regarding the annual fee schedule available to the public using the methods described in the preamble to the final rulemaking. Because of constant changes in technology, however, it is not practical to specify the methods in rule.

**Comment:** The annual establishment of the hourly rate and maximum fees should be accomplished by rule.

**Response:** Under Laws 2000, Chapter 399, Section 1, (HB2418), the Legislature didn’t just authorize the Department to establish maximum fees for Aquifer Protection Permit action applications, it required a specific procedure that the Department must follow.

This procedure provides the parameters for adjusting the maximum fee cap. A.R.S. § 49-421.02(A) requires that maximum fees are determined by calculating the permit hours multiplied by the hourly rate. A.R.S. § 49-421.02(F) defines “hourly rate” as the fee charged for Department services that is calculated on an annual basis and that is specified in the annual fee schedule; and “permit hours” as the 75<sup>th</sup> percentile calculated of the number of hours to complete individual and area-wide permits within a particular sector that are issued within a rolling 4-year period, beginning with fiscal year 1995 - 1996 through fiscal year 1998 - 1999. Nowhere in this section does it give the Department latitude to change this formula.

A.R.S. § 49-241.02(A) requires the Department to annually calculate the hourly rate and list the maximum fees in a fee schedule that must be published annually. A.R.S. § 49-421.02(F) defines “annual fee schedule” as the hourly rate charges for services provided by the Department for a particular fiscal year pursuant to A.R.S. § 49-241(E) and the maximum fees for those services. This requirement to publish an annual fee schedule and the stipulation that the fee schedule must be based on a fiscal year implies that maximum fees should not be promulgated by rule.

An opportunity for public comment is provided under R18-14-104(A)(1) to allow for inputs to the formula for the maximum fee before a new annual fee schedule is implemented. If an increase or decrease is warranted, the Department will work with stakeholders to obtain a consensus on the proposed fee change before the June 1st publication of the annual fee schedule as established under R18-14-104(A)(1). Regardless of whether an increase or decrease is necessary, the Department will publish the annual fee schedule, as required under A.R.S. § 49-241(E), by June 1st with any increase or decrease taking effect on July 1st.

A.R.S. § 49-241.02(E) requires that the Department must review the revenues derived from and the expenses incurred for processing permit action applications through June 30, 2004 to determine the adequacy of the maximum fees, and by August 31, 2004, the Department must issue a report to the legislature on its findings. With an expected January 1, 2001 effective date for this rulemaking and the UWQP and RWP rulemakings, the Department concludes that the August 31, 2004 legislative report will consist of four fiscal years of annual fee schedules.

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The Department believes that A.R.S. § 49-241.02 provides for the maximum fee cap to be changed administratively. This rulemaking is consistent with this authority. The Department also believes that the same statutory provision provides the authority to administratively change the hourly rate fee. However, the Department is deferring rulemaking on the hourly rate formula pending additional discussions with stakeholders regarding the components of the hourly rate formula.

**Comment:** ADEQ should not include time used to orient the inspector with the technology in the fee for the annual inspection.

**Response:** The Department agrees and the practice will be implemented by using a separate subactivity code for orientation/training time in the field. No change has been made to the rule.

**Comment:** R18-14-102(C) requires ADEQ to charge flat rate fees for “established WQPS.” The current ATC and AOC permit program is established. The rules provide for charging hourly rates which conflicts with this provision.

**Response:** The Department proposed that certain established water quality protection services be subject to a flat rate fee. Although ATCs and AOCs were established before the date of the proposed rule, the Department did not intend to change the fee structure for these services. The Department will not provide ATC and AOC services after January 1, 2001. This Section has been revised to clarify which services are subject to flat rate fees. All other services not exempted under R18-14-102(A) or listed in R18-14-102(C) are subject to hourly rate fees under R18-14-102(B).

**Comment:** Explain why ADEQ is charging an additional fee for centralized on-site wastewater treatment facility designs when the time to review is the same as for a single treatment system. Eliminate or revise the definition of “individual on-site wastewater treatment facility” to eliminate the conflict with the definition provided in A.R.S. 49-201(24).

Explain in the final preamble the authority to change the statutory definition of “on-site wastewater treatment facility” and what is the intent behind such a change.

**Response:** The Department defined the terms, “centralized on-site wastewater treatment facility” and “individual on-site wastewater treatment facility” in the proposed rulemaking to make a distinction in the subdivision approvals fees established under R18-14-102(C)(4) and not for individual situations for Type 4 General Permits. In the final editing process these terms were deleted from this rulemaking. Subsection (C)(4) has been revised as follows to clarify the conditions under which fees will be charged:

4. *Subdivision approval. Approvals are granted in phases of 150 lots or less.*
  - a. *Sewage treatment and disposal is provided outside the boundaries of the individual lot, 150 lots or less, \$300;*
  - b. *Sewage and treatment disposal is to be located within the boundary of the lot: 40 lots or less, \$500; 41-150 lots, \$1000;*
  - c. *The appropriate fee in (C)(4)(a) and (C)(4)(b) applies to each phase if a subdivision includes more than 150 lots.*

**Comment:** Clarify whether ADEQ will charge the flat fee for Type 4 permits once or twice for Provisional Verification of General Permit or Verification of General Permit Conformance. The flat fees being established by ADEQ are excessive for the amount of work required to review a set of plans. The fee for Type 4 permits should be based on actual review hours, not estimates.

**Response:** The flat rate fees established under R18-14-102(C)(7) for Type 4 General Permits covers both the Provisional Verification of General Permit Conformance and the Verification of General Permit Conformance. The fees are based on an estimate of the time it will take to review the design and as-built plans, plus time for two site visits (pre-construction and during- or post-construction). The fees account for time spent on reviewing plans (twice), two inspections, and for the development of the provisional and final verifications. Although the Department provided ATCs and AOCs in the past, the Department never issued a Type 4 General Permit and, therefore, must estimate the time involved. All fees will be re-evaluated within five years and, if appropriate, adjusted accordingly.

The Department believes that the fees are justified. No change has been made.

**Table 1. General Permit Fees.**

**Comment:** Renewal fees or transfer fees for Type 4 General Permits should be eliminated or not be adopted until the licensing time-frame requirements are established. The transfer fee is illegal since ADEQ does not provide any service for this fee and ADEQ has not demonstrated any “reasonable costs” or a cost/benefit analysis for this program.

**Response:** Generally, a new service may be established even if specific licensing time-frames have not been developed for the service. Any time-frame will be established in relationship to the program rule and not this rulemaking.

The proposed rule did not include a renewal fee for Type 4 General Permits, nor has a Type 4 General Permit renewal fee been added to the final rulemaking. The “renewal fee with no change column” in Table 1 has been amended to make clear that the renewal fees do not pertain to Type 4 General Permits.

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The Department disagrees with the commenter regarding the legality of the transfer fee. The requirement to notify the Department (or any delegated entity) of the transfer does not prevent the facility owner from transferring the property, but the Department must still review the information submitted by the permittee under R18-9-A304, Notice of Transfer, to determine if the new permittee complies with the permit requirements. Depending upon that review, the Department may require the new permittee to submit a new Notice of Intent to Discharge and to obtain new verifications. As with all transactions, permit transfers require Department review and processing to acquaint staff with the new permittee and to revise permitting records. This minimal fee reimburses the Department for this service. This service is not subject to licensing time-frames because the Department does not provide an approval for the transfer. Therefore, licensing time-frames are not necessary to establish a transfer.

**Comment:** Eliminate the durations for Type 2 and Type 3 General Permits and instead require the owners or operators to submit periodic notices to ADEQ (such as every five years) that the activity or facility remains in compliance with the applicable general permit. The renewal fee should either be deleted or replaced with a smaller fee that pertains to the periodic notice and not to a renewal.

**Response:** This rulemaking deals only with specifying each permitting new and renewal fee, and in some cases, clarifies what is meant by a specific action. The rulemaking does not deal with how a facility is permitted, nor does it establish permit durations. Because the duration for Type 2 and Type 3 General Permits remain as proposed in the UWQP and RWP rules, the renewal fees proposed in this rulemaking are retained. However, the renewal fee for a Type 2 General Permit if no change has been made to the facility has been reduced to \$120.

**Comment:** The \$300 renewal fee for Type 2 General Permits when no changes have occurred at the facility, is excessive and should be changed to a nominal amount such as \$50. If no changes have occurred at a facility, the only time or costs that ADEQ would incur would be for filing the renewal notice. Another commenter commented that the \$500 renewal fee for Type 3 General Permits is also too high.

**Response:** The Department reviewed the fee charged for renewing Type 2 General Permits and after further consideration believes that no more than two hours of review work will be needed for a Type 2 General Permit renewal including a portion of time for an inspection. The proposed fee for a Type 3 General Permit, however, is valid because the Department still needs to review the renewal application and applicable data to ensure that the facility conforms with general permit conditions. Subsection (C)(1)(f) establishing the permit fees for Type 2 and Type 3 General Permits has been revised as follows:

6. *Type 2 and Type 3 General Permits.*
  - a. *New Permit, Expansion and Renewal Fees, established in Table 1.*
  - b. *Transfer of ownership, \$50 per transfer.*
  - c. *If a site contains more than 1 facility covered by the same Type 2 or Type 3 General Permit and each facility is substantially similar in design, construction, and operation, the applicant shall pay the fee established under (C)(6)(a) or (C)(6)(b) for the first facility and 1/3 of the fee for each additional facility.*

The following are examples of the discount described under R18-14-102(C)(6)(c) for Type 3 General Permit situations where a site contains five facilities covered by the same Type 3 General Permit:

1. If no changes occurred at the five facilities = \$1167.
2. If changes occurred at three of the five facilities = \$2500 (changed) + \$667 (unchanged) = \$3167.
3. If changes occurred at all five facilities = \$3500.

Fees for general permits are listed under R18-14-102(C)(6) and (C)(7) and Table 1 of the final rulemaking. As mentioned in the previous response, the renewal fee for a Type 2 General Permit has been reduced to \$120, provided no change occurs to the facility. The renewal fee for a Type 3 General Permit, with no change, remains as published.

**Table 3. Maximum Fees for Approvals to Construct, Approvals of Construction and Time Extensions.**

**Comment:** The increase in maximum fee for an ATC and AOC from \$700 to \$1000 until January 1, 2001 is extremely excessive, was not justified, and should be eliminated.

**Response:** Although the Department believes that the amount of review time for these projects warrants the increase in the maximum fee, ATCs and AOCs will no longer be issued after January 1, 2001 when the UWQP rulemaking becomes effective. Because this rulemaking will also be effective on January 1, 2001, the fee table for ATCs and AOCs has been eliminated from the rulemaking.

**R18-14-105. Fee Assessment and Collection.**

**Comment:** The Department should impose the billing requirements of R18-14-107(C)-(D) [subsection 105(A) and (C)] on 3rd party contractors as part of the contract entered into with that contractor. Although 3rd party contractors may not be subject to the maximum fee set forth in statute, they should be held at a minimum to the same level of accountability as ADEQ in terms of documenting their time spent on reviewing permits.

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**Response:** The Department agrees with the commenter and will specify these requirements in the consultant's contract. No change has been made to the rulemaking.

**Comment:** One commenter suggested that the Department revise subsection 107(F) [subsection 105(C)(4)] to provide for two exceptions: 1) ADEQ will issue a permit in the event the applicant is appealing the ADEQ charges, and 2) ADEQ will release a permit before final payment if the situation warrants.

Another commenter suggested the subsection 107(F) be revised as follow: "ADEQ shall not release the final permit or approval until the final itemized bill is paid in full, unless the bill is under appeal."

**Response:** The fee is a prerequisite to issuance, therefore, the Department will not release a permit or approval before payment of the final bill. The processing fee may still be appealed after it is paid. The owner or operator (or applicant) does not forego his or her right to request reconsideration under R18-14-106 or further appeal if the fee is paid.

**Comment:** Revise [subsection (G)] by inserting the phrase "the fees are" between the words "unless" and "under."

**Response:** The Department has reworded the subsection and moved it to R18-14-102(D)(2). The subsection has been revised as follows:

2. *The owner or operator has an outstanding water quality protection service bill not under appeal.*

**Comment:** In the proposed A.A.C. R18-14-107(C)(1), ADEQ should replace the word "listed under proposed R18-14-102(C)(1)" with the phrase "not billed for pursuant to proposed R18-14-102(C)(1)," or its equivalent. Proposed R18-14-102(C)(1) authorizes ADEQ to charge fees for all review hours and then lists some exemptions. A simple cross-reference to the entire section arguably includes the reference to charging for all review hours, which would have the effect of excluding information on virtually all of ADEQ's activities from a particular bill.

**Response:** The Department included reference of this exclusion in R18-14-102(B), which establishes that the Department will not charge for travel time and the first 60 minutes of Department consultation. R18-14-102(B) has been revised as follows:

- B. *Hourly rate fees. Except as set forth in subsection C, the Department shall calculate the fee using an hourly rate of \$61 multiplied by the number of review hours to provide a water quality protection service, plus any applicable review-related costs, up to the maximum fee specified under R18-14-104.*
  1. *The Department shall not charge an applicant for the first 60 minutes of Department pre-application time costs.*
  2. *The Department shall not charge the applicant travel time.*

R18-14-105(A)(1) informs parties that the number of hours for travel and the first 60 minutes of Department consultation will not be used in the calculation of the fee. Subsection (A)(1) has been revised as follows:

- A. *Billing. The Department shall bill an applicant for water quality protection services no more than monthly, but at least quarterly. The following information shall be included in each bill:*
  1. *The number of hours of the review (excluding hours for travel time and the 1st 60 minutes of pre-application consultation time) accrued by employee position type by activity and subactivity code during the billing period, and the effective hourly rate for all activities;*

**R18-14-106. Reconsideration of the Bill: Appeal Process.**

**Comment:** Revise in one of the following ways: send the bills by certified mail and use the date of receipt to trigger the clock; allow a slightly longer time for appeal (e.g., 35 days); or develop procedures within ADEQ to help remove the possibility of internal delays in mailing bills.

**Response:** The Department currently sets the due date 35 days from the date that the invoice is printed. Bills are appealable at the time of the billing and any fee appeal must be submitted to the Department by the due date for payment printed on the bill or within 35 days of the date for the invoice, whichever is greater. Thirty-five days should provide the applicant adequate time to develop and file a written request for reconsideration with the Director. Subsection (A)(2) has been revised as follows:

2. *The written request for reconsideration shall be delivered to the Director in person, by mail, or by facsimile within 30 days of the date of the final itemized bill. The written request for reconsideration shall be delivered to the Director in person, by mail, or by facsimile on or before the payment due date or within 35 days of the invoice print date, whichever is greater.*

**R18-14-107. Effect on County Fees.**

**Comment:** This Section [Section 109 of the proposed rule] should be further clarified to assure that the agency responsible for approving the permit is the only entity that collects the fee. Both ADEQ and the delegated entity should not collect fees if ADEQ has delegated permit approval.

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**Response:** The fee rules apply for water quality protection services provided by the Department. When another entity has been delegated the authority to perform certain services, such as Type 4 General Permits, etc., the appropriate fee based on the entity's rules or ordinances is paid to the delegated authority and not to the Department. No change has been made to the rule.

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

None

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

None

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

No

**15. The full text of the rule follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY  
PERMIT AND COMPLIANCE FEES**

**ARTICLE 1. WATER QUALITY PROTECTION FEES**

R18-14-101. Definitions

R18-14-102. ~~Fee Services~~ Hourly Rate and Flat Rate Fees

Table 1. General Permit Fees

R18-14-103. ~~Hourly Rates and~~ Initial Fees

R18-14-104. Maximum Fees

Schedule A. ~~Initial Fees For ADEQ Water Quality Protection Permits~~ Repealed

Schedule B. ~~Initial Fees for Water Quality Protection Services Other than Permits~~ Repealed

Schedule C. ~~Maximum Water Quality Protection Permit Fees~~ Repealed

Schedule D. ~~Maximum Fees for Water Quality Protection Services Other than Permits~~ Repealed

R18-14-105. Fee Assessment and Collection

R18-14-106. Reconsideration of ~~the a~~ Bill; Appeal Process

R18-14-107. Effect on County Fees

R18-14-108. Review of Fees Repealed

**ARTICLE 1. WATER QUALITY PROTECTION FEES**

**R18-14-101. Definitions**

In addition to the definitions ~~prescribed in ARS A.R.S. §§ 49-101, 49-201, 49-241.02, 49-331, and 49-362(I), and A.A.C. R18-9-101 and R18-9-701,~~ the following terms ~~in apply to this Article have the following meanings:~~

1. "ADEQ" means the Arizona Department of Environmental Quality.
2. "Annual inspection" means an annual inspection of sewage disposal for a subdivision pursuant to ARS §49-104(B)(11) an annual inspection of a sewage collection, treatment, disposal or reclamation system pursuant to ARS § 49-104(B)(13) or a mandatory annual routine operation and maintenance inspection of an on-site wastewater treatment facility pursuant to ARS § 49-362(A)(5).
3. "Approval of construction" means an ADEQ approval to operate a constructed wastewater collection, treatment, storage, or disposal facility, or sewer line extensions or line replacements, issued pursuant to A.A.C. R18-9-805.
4. "Approval to construct" means an ADEQ approval to construct a proposed wastewater collection, treatment, storage, or disposal facility, or sewer line extensions or line replacements, issued pursuant to A.A.C. R18-9-804.
5. "Approved" or "approval" means written approval from ADEQ.
6. "Aquifer protection permit" means an individual, area wide, or general permit issued pursuant to ARS §§ 49-203 or 49-241 through 251, or 18 A.A.C. 9, including denied permit applications.
1. "Complex modification" means:
  - a. A revision of an individual Aquifer Protection Permit for a facility within a mining sector as defined in A.R.S. § 49-241.02(F)(2); and
  - b. A revision of an individual Aquifer Protection Permit for a facility within a dry well, industrial, or wastewater sector due to any of the following:
    - i. An expansion of an existing pollutant management area;
    - ii. A new subsurface disposal including injection or recharge, or new wetlands construction;
    - iii. Incorporation of an extensive compliance schedule into a permit;
    - iv. A discharge to the waters of the United States with the potential to impact the downgradient protective uses;

- v. Submission of data indicating contamination, or identification of a discharging facility or pollutants not included in previous applications that requires reevaluation of BADCT; or
  - vi. Closure of a facility that cannot meet the clean closure requirements of A.R.S. § 49-252 and requires post-closure care, monitoring, or remediation.
7. ~~“Conventional septic tank” means a septic tank system with a capacity of greater than 2,000 gallons per day.~~
  8. ~~“gpd” means gallons per day.~~
  9. ~~“Major modification” means any revision to an issued aquifer protection permit pursuant to ARS § 49-201(19).~~
  10. ~~“NPDES permit” means a National Pollutant Discharge Elimination System permit issued by ADEQ pursuant to under the delegated authority from the United States Environmental Protection Agency for a point source discharge of pollutants into waters of the United States, as required by 33 U.S.C. 1342 (402) of the Clean Water Act. For purposes of this Article, an NPDES permit includes a denied permit application for an NPDES permit.~~
  11. ~~“Other modification” means a revision to an issued aquifer protection permit that is not a major modification, and includes a minor modification as defined in R18-9-121(D).~~
  - 12.2. ~~“Owner or operator” means a person with a vested interest in real or personal property, or an authorized representative or agent of that person.~~
  13. ~~“Related costs” means ADEQ expenditures for supplies, equipment, analysis, photocopying, transportation, and per diem.~~
  - 14.3. ~~“Request” means a written application, letter, or memorandum submitted by the owner or operator~~ an applicant to ADEQ the Department for water quality protection services. A request is made at the time it is received at ADEQ by the Department.
  15. ~~“Reuse permit” means a permit issued by ADEQ for wastewater effluent reuse under A.A.C. R18-9-702(C). A reuse permit includes a denied application for a reuse permit.~~
  4. “Review-related costs” means any of the following costs applicable to a specific application:
    - a. Presiding officer services for public hearings on a permitting decision;
    - b. Court reporter services for public hearings on a permitting decision;
    - c. Facility rentals for public hearings on a permitting decision;
    - d. Charges for laboratory analyses performed during the application review, and
    - e. Other reasonable, direct, plan review-related expenses documented in writing by the Department and agreed to by an applicant.
  - 16.5. ~~“Significant Industrial Users” means the same as in 40 CFR 403.3(t).~~
  - 17.6. ~~“Site visit” means an inspection conducted prior to issuance of an approval of construction or approval to construct before issuing a permit or approval.~~
  7. “Standard modification” means an amendment to an individual Aquifer Protection Permit that is not a complex modification.
  18. ~~“Time extension” means a written extension of the expiration date for an existing construction approval issued by ADEQ.~~
  19. ~~“U.S. EPA” means the United States Environmental Protection Agency.~~
  20. ~~“Wastewater treatment facility” means any of the processes, devices, structures, pipes, equipment, and earth works which are used for collecting, treating, and disposing of domestic wastewater, including reusing the treated wastewater. Wastewater treatment facility does not include conventional septic tanks or industrial, agricultural, or similar systems or facilities for the collection, distribution, treatment, reuse, or disposal of wastewater or if the water or wastewater is used or reused for nonpotable purposes.~~
  - 21.8. “Water quality protection service” means:
    - a. reviewing Reviewing a request for a determination of applicability;
    - b. issuing Issuing, renewing, modifying amending, transferring, or denying an aquifer protection permit, or a reuse reclaimed water permit; or NPDES permit;
    - c. Reviewing supplemental information required by a permit condition, including closure;
    - d. performing Performing a clean closure plan review;
    - e. Issuing a Subdivision Approval;
    - f. registering Registering a dry well;
    - g. reviewing an “approval to construct,” “approval of construction,” or a time extension request;
    - g. conducting Conducting a site visit;
    - h. registering Registering a significant industrial users user; or
    - i. conducting Conducting an annual reclaimed water inspection.

**R18-14-102. Fee Services Hourly Rate and Flat Rate Fees**

- A. ADEQ The Department shall assess and collect fees an hourly rate fee or a flat rate fee for a water quality protection services service including any site visits except for minor permit amendments specified under R18-9-A211(C)(1), (C)(2) and (C)(3).

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- B.** ~~ADEQ shall not charge a fee for the first 30 minutes of technical assistance provided during a an annual inspection or site visit.~~
- B.** Hourly rate fees. Except as established under subsection (C), the Department shall calculate the fee using an hourly rate of \$61 multiplied by the number of review hours to provide a water quality protection service, plus any applicable review-related costs, up to the maximum fee specified under R18-14-104.
1. The Department shall not charge an applicant for the first 60 minutes of Department pre-application consultation time costs.
  2. The Department shall not charge the applicant travel time.
- C.** Flat rate fees. The Department shall assess a flat rate fee for the following water quality protection services:
1. Dry well registration, \$10 per dry well;
  2. Significant industrial user registration, \$250 per year;
  3. Determination of applicability, \$100 per request:
    - a. If the Department determines that an individual permit is required or that the applicant qualifies for a Type 2, Type 3, or Type 4 General Permit, the \$100 fee shall be applied to the final bill for the individual permit or to the flat rate fee for the general permit.
    - b. If the determination of applicability is completed as part of an area-wide permit issued under A.R.S. § 49-243(P), the fee for the individual permit applies.
  4. Subdivision approval. Approvals are granted in phases of 150 lots or less.
    - a. Sewage treatment and disposal is provided outside the boundaries of the individual lots, 150 lots or less, \$300;
    - b. Sewage treatment and disposal will be located within the boundary of the lot, 40 lots or less, \$500; 41 to 150 lots, \$1000;
    - c. The appropriate fee specified in (C)(4)(a) and (C)(4)(b) applies to each phase if a subdivision includes more than 150 lots.
  5. Type 1 General Permits. No fee is required;
  6. Type 2 and Type 3 General Permits.
    - a. New permit, expansion, and renewal fees, established in Table 1;
    - b. Transfer of ownership, \$50 per transfer;
    - c. If a site contains more than 1 facility covered by the same Type 2 or Type 3 General Permit and each facility is substantially similar in design, construction, and operation, the applicant shall pay the fee established under (C)(6)(a) or (C)(6)(b) for the first facility and 1/3 of the fee for each additional facility.
  7. Type 4 General Permits.
    - a. New permit and expansion fees established in Table 1 plus any of the following:
      - i. A request for an alternative design, installation, or operational feature, \$75 per change;
      - ii. A design requiring an interceptor, \$100 per interceptor;
      - iii. A site visit verifying a construction deviation, \$150 per site visit.
    - b. If an on-site wastewater treatment system is based on a design that combines elements from more than one Type 4 General Permit, the applicant shall pay the greatest fee established in Table 1 for the appropriate Type 4 General Permit; \$250 for each additional general permit used in the design, and any additional fee specified in subsections (C)(7)(a)(i), (C)(7)(a)(ii), and (C)(7)(a)(iii).
    - c. Transfer of ownership, \$50 per transfer for the first Type 4 General Permit.
- D.** The Department shall not review a request for a water quality protection service if:
1. The initial fee established in R18-14-103 or flat rate fee established in subsection (C) has not been paid, or
  2. The owner or operator has an outstanding water quality protection service bill not under appeal.

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**Table 1. GENERAL PERMIT FEES**

<u>General Permit Type</u>	<u>Permit Description</u>	<u>New Permit, Expansion, and Renewal Fee With Change</u>	<u>Renewal Fee With No Change</u>
<u>Type 1</u>	<u>All Type 1 General Permits</u>	<u>No Fee</u>	<u>No Fee</u>
<u>Type 2</u>	<u>All Type 2 General Permits</u>	<u>\$300</u>	<u>\$120</u>
<u>Type 3</u>	<u>All Type 3 General Permits</u>	<u>\$1500</u>	<u>\$500</u>
<u>Type 4</u>			
<b><u>SEWER COLLECTIONS SYSTEMS</u></b>			
<u>4.01</u>	<u>Gravity Sewer Only with Manholes</u> <ul style="list-style-type: none"> <li>• <u>Serving less than or equal to 50 connections</u></li> <li>• <u>Serving 51 to 300 connections</u></li> <li>• <u>Serving 301 or more Connections</u></li> </ul> <u>Force Mains Including Gravity Sewer Components</u> <ul style="list-style-type: none"> <li>• <u>Serving less than or equal to 50 connections</u></li> <li>• <u>Serving 51 to 300 connections</u></li> <li>• <u>Serving 301 or more connections</u></li> </ul>	<u>\$500</u> <u>\$1000</u> <u>\$1500</u> <u>\$800</u> <u>\$1300</u> <u>\$1800</u>	<u>No Fee</u> <u>No Fee</u> <u>No Fee</u> <u>No Fee</u> <u>No Fee</u> <u>No Fee</u>
<b><u>ON-SITE WASTEWATER TREATMENT FACILITIES</u></b>			
<u>4.02</u>	<u>Septic tank/conventional disposal, less than 3000 gallons per day</u>	<u>\$400</u>	<u>No Fee</u>
<u>4.03</u>	<u>Composting toilet, less than 3000 gallons per day</u>	<u>\$400</u>	<u>No Fee</u>
<u>4.04</u>	<u>Pressure distribution system, less than 3000 gallons per day</u>	<u>\$500</u>	<u>No Fee</u>
<u>4.05</u>	<u>Gravelless trench, less than 3000 gallons per day</u>	<u>\$500</u>	<u>No Fee</u>
<u>4.06</u>	<u>Natural seal evapotranspiration bed, less than 3000 gallons per day</u>	<u>\$600</u>	<u>No Fee</u>
<u>4.07</u>	<u>Lined evapotranspiration bed, less than 3000 gallons per day</u>	<u>\$600</u>	<u>No Fee</u>
<u>4.08</u>	<u>Wisconsin mound, less than 3000 gallons per day</u>	<u>\$500</u>	<u>No Fee</u>
<u>4.09</u>	<u>Engineered pad system, less than 3000 gallons per day</u>	<u>\$600</u>	<u>No Fee</u>
<u>4.10</u>	<u>Intermittent sand filter, less than 3000 gallons per day</u>	<u>\$600</u>	<u>No Fee</u>
<u>4.11</u>	<u>Peat filter, less than 3000 gallons per day</u>	<u>\$600</u>	<u>No Fee</u>
<u>4.12</u>	<u>Textile filter, less than 3000 gallons per day</u>	<u>\$600</u>	<u>No Fee</u>
<u>4.13</u>	<u>Ruck® system, less than 3000 gallons per day</u>	<u>\$600</u>	<u>No Fee</u>
<u>4.14</u>	<u>Sewage vault, less than 3000 gallons per day</u>	<u>\$400</u>	<u>No Fee</u>
<u>4.15</u>	<u>Aerobic system/subsurface disposal, less than 3000 gallons per day</u>	<u>\$800</u>	<u>No Fee</u>
<u>4.16</u>	<u>Aerobic system/surface disposal, less than 3000 gallons per day</u>	<u>\$1000</u>	<u>No Fee</u>
<u>4.17</u>	<u>Cap system, less than 3000 gallons per day</u>	<u>\$400</u>	<u>No Fee</u>
<u>4.18</u>	<u>Constructed wetlands, less than 3000 gallons per day</u>	<u>\$600</u>	<u>No Fee</u>
<u>4.19</u>	<u>Sand-lined trench, less than 3000 gallons per day</u>	<u>\$500</u>	<u>No Fee</u>
<u>4.20</u>	<u>Disinfection device, less than 3000 gallons per day</u>	<u>\$500</u>	<u>No Fee</u>
<u>4.21</u>	<u>Sequencing batch reactor, less than 3000 gallons per day</u>	<u>\$600</u>	<u>No Fee</u>
<u>4.22</u>	<u>Subsurface drip irrigation, less than 3000 gallons per day</u>	<u>\$500</u>	<u>No Fee</u>
<u>4.23</u>	<u>On-site wastewater treatment facility, flow from 3000 to less than 24,000 gallons per day</u>	<u>\$1800</u>	<u>No Fee</u>

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**R18-14-103. Hourly Rates and Initial Fees**

- A.** Except as set forth in subsection B, the fee for any service described in R18-14-102 shall be calculated using an hourly rate of \$49 multiplied by the number of hours reasonably required to provide a water quality protection service.
1. ADEQ shall not charge the owner or operator a fee for an initial meeting to consult with ADEQ personnel prior to submitting a request for water quality protection services.
  2. ADEQ shall not bill an owner or operator travel time.
- B.** The following flat fees are established for the identified services:
1. The fee for a dry well registration shall be \$10 per dry well,
  2. The fee for a significant industrial user registration shall be \$250 per year.
- C.** The initial fees for all ADEQ water quality protection services, set forth in Schedules A or B, shall be paid at the time the request for services is made. When more than 1 initial fee is applicable to a request for multiple water quality protection services, or for application for multiple types of discharging facilities, the initial fee owed shall be the sum of all applicable initial fees, not to exceed the applicable maximum fee. The owner or operator shall remit a separate initial fee for each request. If an initial fee exceeds the maximum fee charged under a fee cap, the owner or operator shall remit the applicable capped fee.
- D.** Upon request, ADEQ may set an alternative, lower initial fee on a case-by-case basis, when it is likely that the final fee will not exceed 70% of the otherwise applicable initial fee.
- A.** Except for annual reclaimed water inspections, an applicant shall submit a \$1000 initial fee for each water quality protection service subject to an hourly rate fee established under R18-14-102(B) at the time an application is submitted to the Department for review.
- B.** If requested by an applicant, the Department may set a lower initial fee when the Department estimates a review fee that is less than the applicable initial fee.

**R18-14-104. Maximum Fees**

ADEQ shall not assess more than the maximum fee for each of the services set out in Schedules C and D:

- A.** Maximum fees for Aquifer Protection Permit actions.
1. Maximum fees for individual Aquifer Protection Permits, complex modifications, standard modifications, clean closures, and denials shall be determined as prescribed under A.R.S. § 49-241.02(A) and the hourly rate specified under R18-14-102(B).
    - a. The public shall have an opportunity to comment on factors used to obtain the maximum fee.
    - b. The Department shall list the maximum fees in an Annual Fee Schedule which shall be published in the *Arizona Administrative Register* by June 1 of each year, except for FY01 when it will be published by January 1, 2001.
  2. When an application is deemed administratively complete, the Department shall notify the applicant of the applicable maximum fee for review of the application. The maximum fee will be the lesser of the effective maximum fee determined under subsection (A)(1) or the applicable maximum fee specified under A.R.S. § 49-241.02(B).
  3. Unless the applicant has been previously noticed, the Department shall issue a supplemental notice specifying the maximum fee for a pending project deemed administratively complete before January 1, 2001.
- B.** Maximum fees for Reclaimed Water Individual Permits. The Department shall charge no more than \$16,000 for review of each reclaimed water individual permit application.

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**Schedule A. INITIAL FEES FOR ADEQ WATER QUALITY PROTECTION PERMITS ~~Repealed~~**

<b>TYPE OF DISCHARGING PERMIT<sup>1</sup></b>	<b>New Permit<sup>2</sup></b>	<b>Major-Modification</b>	<b>Other Modification</b>
<b>Wastewater Treatment Facilities (With a design greater than or equal to 20,000 gpd)</b>			
Lined Surface Impoundments	\$ 1,800	\$1,000	\$ 100
Discharge to Surface Waters	\$ 1,800	\$1,000	\$ 100
Subsurface Discharge	\$ 2,400	\$1,200	\$ 100
<b>Wastewater Treatment Facilities (With a design Less than 20,000 gpd)</b>			
	\$ 1,200	\$ 600	\$ 100
<b>Industrial Facilities</b>			
Lined Surface Impoundments	\$ 4,500	\$ 2,200	\$ 300
Discharge to Surface Waters	\$ 4,500	\$ 2,200	\$ 300
Subsurface Discharge	\$ 4,500	\$ 2,200	\$ 300
<b>Mine Facilities</b>			
Tailing Piles or Ponds	\$ 6,000	\$ 3,000	\$ 400
Base Metal Leaching Operations	\$ 6,000	\$ 3,000	\$ 400
Discharge to Surface Waters	\$ 4,500	\$ 2,200	\$ 300
Precious Metal Processing	\$ 4,800	\$ 2,400	\$ 400
In-Situ Leaching	\$ 6,000	\$ 3,000	\$ 400
Other	\$ 4,000	\$ 2,000	\$ 400
<b>Other Permits</b>			
Other Discharging Facilities	\$ 4,000	\$ 2,000	\$ 300
Reuse Permit	\$ 1,400	—	\$ 100

- 1- Fees paid pursuant to A.A.C. R18-9-123 for permit applications submitted but not acted upon as of the effective date of this rule shall be deemed to satisfy the initial fee under the rules.
- 2- Permit includes individual aquifer protection permits, and will include NPDES permits if ADEQ receives delegation from the United States Environmental Protection Service to administer the NPDES program in ARIZONA.

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**Schedule B. INITIAL FEES FOR WATER QUALITY PROTECTION SERVICES OTHER THAN PERMITS  
 Repealed**

ADEQ SERVICE	INITIAL FEE
Aquifer Protection Permit	
Applicability Determination Reviews	\$0
Clean Closure Plan Reviews	\$0
Construction Approvals and Time Extension Reviews for an On-Site Wastewater Disposal System	\$100
Construction Approvals and Time Extension Reviews for Domestic Wastewater Systems, Including Collection Systems (greater than or equal to 2,000 gpd, but less than 20,000 gpd)	\$500
Construction Approvals and Time Extension Reviews for Domestic Wastewater Systems, Including Collection Systems (greater than or equal to 20,000 gpd)	\$1,000

**Schedule C. MAXIMUM WATER QUALITY PROTECTION PERMIT FEES Repealed**

TYPE OF DISCHARGING PERMIT	New Permit <sup>3,4,5</sup>	Major Modification <sup>4</sup>	Other Modification <sup>4</sup>
<b>Wastewater Treatment Facilities (With a design greater than or equal to 20,000 gpd)<sup>6</sup></b>			
Lined Surface Impoundments	\$16,000	\$10,600	\$1,500
Discharge to Surface Waters	\$16,000	\$10,600	\$1,500
Subsurface Discharge	\$16,000	\$15,300	\$2,300
<b>Wastewater Treatment Facilities (With a design less than 20,000 gpd)</b>			
	\$16,000	\$8,000	\$1,100
<b>Industrial Facilities</b>			
Lined Surface Impoundments	\$16,000	\$16,000	\$2,900
Discharge to Surface Waters	\$16,000	\$16,000	\$4,000
Subsurface Discharge	\$16,000	\$16,000	\$4,000
<b>Mine Facilities</b>			
Tailing Piles or Ponds	\$16,000	\$16,000	\$10,000
Base Metal Leaching Operations	\$16,000	\$16,000	\$10,000
Precious Metal Processing	\$16,000	\$16,000	\$7,200
Discharge to Surface Waters	\$16,000	\$16,000	\$8,200
In-Situ Leaching	\$16,000	\$16,000	\$8,200
<b>Other Permits</b>			
Other Discharging Facilities	\$16,000	\$16,000	\$4,300
Reuse permit	\$16,000	-	\$2,300

- 3- Permit includes individual aquifer protection permits and NPDES permits.
- 4- In addition to this table, maximum payments for aquifer protection permit fees are limited by A.R.S. § 49-241.02.
- 5- Where an applicability review determines that an individual aquifer protection permit is needed, the fee for the applicability determination will be added to the total permit fee.
- 6- In the case of system with annual gross revenues of \$300,000 or less, the maximum fee charged will be capped at 1% of the gross revenues.

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**Schedule D. MAXIMUM FEES FOR WATER QUALITY PROTECTION SERVICES OTHER THAN PERMITS  
 Repealed**

<del>ADEQ SERVICE</del>	<del>Review Approval to Construct Requests</del>	<del>Review Approval to Construction Requests</del>
<del>Construction Approvals and Time Extension Reviews for an On-Site Wastewater Disposal System</del>	<del>\$ 700</del>	<del>\$ 700</del>
<del>Construction Approvals and Time Extension Reviews for Domestic Wastewater Systems, Including Collection Systems (greater than or equal to 2,000 gpd, but less than 20,000 gpd)</del>	<del>\$ 4,500<sup>7</sup></del>	<del>\$ 4,500<sup>8</sup></del>
<del>Construction Approvals and Time Extension Reviews for Domestic Wastewater Systems, Including Collection Systems (greater than or equal to 20,000 gpd)</del>	<del>\$ 10,000<sup>9</sup></del>	<del>\$ 10,000<sup>10</sup></del>
 <del>ADEQ SERVICE</del>	 <del>CHARGE</del>	
<del>Annual Inspections</del>	<del>\$ 3,200</del>	
<del>Clean Closure Plan Review</del>	<del>\$ 3,000</del>	

- ~~7. In the case of systems with annual gross revenues of \$300,000 or less, the maximum fee charged will be capped at 1% of the gross revenue.~~
- ~~8. In the case of systems with annual gross revenues of \$300,000 or less, the maximum fee charged will be capped at 1% of the gross revenue.~~
- ~~9. In the case of systems with annual gross revenues of \$300,000 or less, the maximum fee charged will be capped at 1% of the gross revenue.~~
- ~~10. In the case of systems with annual gross revenues of \$300,000 or less, the maximum fee charged will be capped at 1% of the gross revenue.~~

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**R18-14-105. Fee Assessment and Collection**

- ~~A.~~ An owner or operator of a facility or activity at which ADEQ has conducted an annual inspection shall pay the final itemized bill within 30 days from the date on which the final inspection report and final itemized bill are mailed to the owner or operator.
- ~~B.~~ Except for annual inspections, ADEQ shall not review any requests for water quality protection services until the appropriate initial fee set forth in Schedule A or B of R18-14-104 is paid in full to ADEQ.
- ~~C.~~ After completion of its review, but prior to notification to the owner or operator of the final action on the request, ADEQ shall prepare a final itemized bill which shall contain:
  - 1. The total number of hours of the review;
  - 2. The dates and number of hours of travel done as part of the review;
  - 3. The total amount of fees due;
  - 4. A description of each activity performed;
  - 5. The number of hours spent performing each activity.
- ~~D.~~ If the total amount of fees due exceeds the amount of the initial fee, ADEQ shall bill the owner or operator for the cost of the services, less the initial fee, up to the maximum allowed in Schedules C and D under R18-14-104. If the total amount of fees is less than the initial fee, ADEQ shall refund the difference to the person who paid the initial fee.
- ~~E.~~ ADEQ shall not take final action on a request until the final bill is paid in full.
- ~~F.~~ ADEQ shall not review any subsequent request for water quality protection services for an owner or operator until all past due fees are paid in full.
- ~~G.~~ Fees for water quality protection services shall be paid either by county check, purchase order, city check, company check, certified check, or money order, made payable to ADEQ.
- A. Billing. The Department shall bill an applicant for water quality protection services no more than monthly, but at least quarterly. The following information shall be included in each bill:
  - 1. The number of hours of the review (excluding hours for travel time and the 1st 60 minutes of pre-application consultation time) accrued by employee position type by activity and subactivity code during the billing period, and the effective hourly rate for all activities;
  - 2. A description and amount of each review-related cost incurred for the project;
  - 3. The total fees due and paid and the maximum fee for the project; and
  - 4. A description, by date, of each water quality protection service performed.
- B. Annual reclaimed water inspection. If the Department conducts an annual reclaimed water inspection, the owner or operator shall pay the final itemized bill within 30 days from the date on which the final inspection report and final itemized bill are mailed to the owner or operator.
- C. Final bill. After the Department makes a final determination whether to grant or deny an request for a permit or an approval, or when an applicant withdraws or closes the application, the Department shall prepare a final itemized bill for an application review.
  - 1. If the total fee exceeds the amount of the initial fee plus all invoicing, the Department shall issue a final itemized bill for the cost of the water quality protection services up to the applicable maximum fee established under R18-14-104.
  - 2. If the total fee is less than the initial fee and all paid invoicing charges, the Department shall refund the difference to the applicant.
  - 3. Fees for water quality protection services shall be paid in U.S. dollar by cash, check, cashier's check, money order, or any other method acceptable to the Department.
  - 4. The Department shall not release the final permit or approval until the final itemized bill is paid in full.

**R18-14-106. Reconsideration of the a Bill; Appeal Process**

- ~~A.~~ An owner or operator A person may seek review of ~~the final itemized a~~ bill by filing a written request for reconsideration with the Director.
  - 1. The request shall specify, in detail, why the bill is in dispute and shall include any supporting documentation.
  - 2. ~~The written request for reconsideration shall be delivered to the Director in person, by mail, or by facsimile within 30 days of the date of the final itemized bill. The written request for reconsideration shall be delivered to the Director in person, by mail, or by facsimile on or before the payment due date or within 35 days of the invoice print date, whichever is greater.~~
- ~~B.~~ The Director shall make a final decision on the request for reconsideration of the bill and mail a final written decision to the ~~owner or operator person~~ within ~~40~~ 20 working days after the date ~~of receipt by the Director of receives~~ the written request for reconsideration.
- ~~C.~~ A final decision of the Director on a request for reconsideration is subject to the appeal process set forth in ARS § 41-1092 et seq.

**R18-14-107. Effect on County Fees**

Nothing in this Chapter affects the authority of county or other local governments to charge fees for implementing delegated ADEQ Department water quality protection programs in accordance with statutory authority.

**~~R18-14-108. Review of Fees Repealed~~**

- ~~A. By no later than the end of fiscal year 1999, ADEQ shall complete a review of revenues derived from and costs incurred for water quality protection services and shall issue a written report on the review.~~
- ~~B. ADEQ shall afford the public an opportunity to participate in the review, including an opportunity to examine and comment on the report before a final report is issued.~~
- ~~C. If the final report demonstrates that fees charged pursuant to this Chapter are higher or lower than the reasonable costs of providing water quality protection services, ADEQ shall, within 3 months after completing the review, commence a rulemaking to adjust the fees accordingly.~~