

# Arizona Administrative REGISTER

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~ Administrative Register Contents ~

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Information .....	2278
Rulemaking Guide .....	2279
<b><u>RULES AND RULEMAKING</u></b>	
<b>Proposed Rulemaking, Notices of</b>	
2 A.A.C. 8 State Retirement System Board .....	2281
18 A.A.C. 4 Department of Environmental Quality - Safe Drinking Water .....	2286
<b><u>OTHER AGENCY NOTICES</u></b>	
<b>Docket Opening, Notices of Rulemaking</b>	
12 A.A.C. 1 Radiation Regulatory Agency .....	2295
18 A.A.C. 4 Department of Environmental Quality - Safe Drinking Water .....	2296
<b>Public Information, Notices of</b>	
Department of Environmental Quality .....	2297
<b><u>GOVERNOR'S OFFICE</u></b>	
<b>Governor's Executive Orders</b>	
E.O. 2015-01: Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies .....	2318
<b>Governor's Proclamations</b>	
Breast Cancer Awareness Month .....	2320
#COMMIT2TEN .....	2321
Cyber Security Awareness Month .....	2321
Domestic Violence Awareness Month .....	2322
Filipino-American History Month .....	2323
International Plasma Awareness Week .....	2324
Lead Poisoning Prevention Week .....	2324
Male Breast Cancer Awareness Week .....	2325
Value of Water Week .....	2326
<b><u>INDEXES</u></b>	
Register Index Ledger .....	2327
Rulemaking Action, Cumulative Index for 2015 .....	2328
Other Notices and Public Records, Cumulative Index for 2015 .....	2333
<b><u>CALENDAR/DEADLINES</u></b>	
Rules Effective Dates Calendar .....	2335
Register Publishing Deadlines .....	2337
<b><u>GOVERNOR'S REGULATORY REVIEW COUNCIL</u></b>	
Governor's Regulatory Review Council Deadlines .....	2338

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# From the Publisher

## ABOUT THIS PUBLICATION

The paper copy of the *Administrative Register* (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the *Arizona Administrative Register* or *Code*. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions.

## ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the *Register*. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

## WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?

The *Arizona Administrative Code* (A.A.C.) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The printed *Code* is the official publication of a rule in the A.A.C. is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The *Code* is posted online for free.

## LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a copy.

# Arizona Administrative REGISTER

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**ADMINISTRATIVE CODE**  
A price list for the *Arizona Administrative Code* is available online. You may also request a paper price list by mail. To purchase a paper Chapter, contact customer service at  
(602) 364-3223.

**PUBLICATION DEADLINES**  
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

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# Participate in the Process

## Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

## Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

# Arizona Regular Rulemaking Process



## Definitions

**Arizona Administrative Code (A.A.C.):** Official rules codified and published by the Secretary of State's Office. Available online at [www.azsos.gov](http://www.azsos.gov).

**Arizona Administrative Register (A.A.R.):** The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at [www.azsos.gov](http://www.azsos.gov).

**Administrative Procedure Act (APA):** A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at [www.azleg.gov](http://www.azleg.gov).

**Arizona Revised Statutes (A.R.S.):** The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at [www.azleg.gov](http://www.azleg.gov).

**Chapter:** A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

**Close of Record:** The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

**Code of Federal Regulations (CFR):** The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

**Docket:** A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

**Economic, Small Business, and Consumer Impact Statement (EIS):** The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

**Governor's Regulatory Review (G.R.R.C.):** Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

**Incorporated by Reference:** An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

**Federal Register (FR):** The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

**Session Laws or "Laws":** When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.," and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at [www.azleg.gov](http://www.azleg.gov).

**United States Code (U.S.C.):** The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

## Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor's Regulatory Review Council*

U.S.C. – *United States Code*

## About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.

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**NOTICES OF PROPOSED RULEMAKING**

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This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency the promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

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**NOTICE OF PROPOSED RULEMAKING**

**TITLE 2. ADMINISTRATION**

**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

[R15-131]

**PREAMBLE**

- |  |                                 |
|--|---------------------------------|
| <b><u>1. Article, Part or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
| R2-8-115   | Amend                           |
| R2-8-118   | Amend                           |
| R2-8-122   | Amend                           |
| R2-8-126   | Amend                           |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. § 38-714(E)(4)  
 Implementing statutes: A.R.S. §§ 38-711, 38-720, 38-735, 38-736, 38-737, 38-740, 38-762, 38-764, 38-769, 38-771, 38-771.01, 38-774
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rules:**  
 Notice of Rulemaking Docket Opening: 21 A.A.R. 1834, September 11, 2015
- 4. The agency’s contact person who can answer questions about the rulemaking:**  
 Name: Jessica A. Ross, Rule Writer  
 Address: Arizona State Retirement System  
 3300 N. Central Ave., Suite 1400  
 Phoenix, AZ 85012-0250  
 Telephone: (602) 240-2039  
 Email: JessicaR@azasrs.gov
- 5. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**  
 The ASRS needs to clarify approximately four (4) rules within Article 1. R2-8-115 needs to reflect that Ending Payroll Verification may be completed electronically by the employer. The rule also needs to state that the ASRS may require a copy of a government issued ID to verify the identity of a withdrawing member who has been inactive for 5+ years and has \$1,000+ on their account balance. R2-8-118 needs to be amended to clarify that “voluntary additional contributions” refers to contributions that are made pursuant to a service purchase, reinstatement, etc. R2-8-122 needs to be amended to be more concise by referring to the ASRS by the agency acronym and by removing unnecessary language such as “without limitation.” The ASRS needs to amend R2-8-126 subsections (B), (C), and (D) to better clarify for which annuity options each age group is eligible.

With the exception of the ID addition to R2-8-115, the amendments outlined above will clarify the rule language without substantively changing the rules’ requirements, thereby reducing the regulatory burden imposed on the



public. Amending R2-8-115 to require ID verification as indicated will prevent potential fraud against the agency by ensuring that the correct person is requesting withdrawal of an inactive member's account. This rulemaking will help the ASRS control and mitigate possible delays associated with a withdrawal of an inactive member's account, resulting in the more efficient operation and administration of the ASRS.

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

None

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

Not applicable

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

There is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies requirements that the ASRS enforces in rule already. There may be some additional cost to some members who must provide documentation to verify their identity when specific criteria are present as mentioned above. However, those costs should be minimal because the ASRS will accept a copy of any government issued ID for such verification purposes.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Jessica A. Ross, Rule Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Suite 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039  
Email: JessicaR@azasrs.gov

**10. The time, place, and nature of the proceedings for to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request and oral proceedings on the proposed rule:**

An oral proceeding regarding the proposed rule will be held as follows:

Date: November 10, 2015  
Time: 9:00 a.m.  
Location: Arizona State Retirement System  
10th Floor Board Room  
3300 N. Central Ave.  
Phoenix, AZ 85012-0250

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

None of the rules requires a permit.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:**

Federal law applies to retirement programs, but no federal law specifically applies to this rulemaking.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

**12. A list of incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

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



TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

- Section
- R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death; Payment of Survivor Benefits Upon the Death of a Member
- R2-8-118. Application of Interest Rates
- R2-8-122. Remittance of contributions
- R2-8-126. Calculating Benefits

ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

**R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death; Payment of Survivor Benefits Upon the Death of a Member**

- A. The following definitions apply to this Section unless otherwise specified:
  1. "Acceptable documentation" means any ASRS form request containing all the accurate, required information, dates, and signatures necessary to process the form request.
  2. "Eligible retirement plan" means the same as in A.R.S. § 38-770(D)(3).
  3. "Employer number" means a unique identifier the ASRS assigns to a member employer.
  4. "Employer plan" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(c), (d), (e), and (f).
  5. "Process date" means the calendar day the ASRS generates contribution withdrawal documents to be sent to a member.
  6. "Warrant" means a voucher authorizing payment of funds due to a member.
- B. No change
- C. ~~Upon receipt of the request to withdraw by the member, the ASRS shall provide the member with:~~
  1. An Application for Withdrawal of Contributions and Termination of Membership form to the member, and
  2. An Ending Payroll Verification - Withdrawal of Contribution and Termination of Membership form, ~~and~~ to the employer.
  3. ~~The process date.~~
- D. The member shall complete and return to the ASRS the Application for Withdrawal of Contributions and Termination of Membership form that includes the following information:
  1. The member's full name;
  2. The member's Social Security number;
  3. The member's current mailing address;
  4. The member's daytime telephone number, if applicable;
  5. The member's birth date;
  6. The date of termination;
  7. Dated signature of the member certifying that the member:
    - a. Is no longer employed by any ASRS employer;
    - b. Is neither under contract nor has any verbal or written agreement for future employment with an ASRS employer;
    - c. Is not currently in a leave of absence status with an ASRS employer;
    - d. Understands that each of the member's former ASRS employers' payroll departments will complete a payroll verification form if payroll transactions occurred with the ASRS employer within the six months before the process date;
    - e. Has read and understands the Special Tax Notice Regarding Plan Payments the member received with the application;
    - f. Understands that the member is forfeiting all future retirement rights and privileges of membership with the ASRS;
    - g. Understands that long-term disability benefits will be canceled if the member elects to withdraw contributions while receiving or electing to receive long-term disability benefits;
    - h. Understands that if the member elects to roll over all or any portion of the member's distribution to another employer plan, it is the member's responsibility to verify that the receiving employer plan will accept the roll-over and, if applicable, agree to separately account for the pre-tax and post-tax amounts rolled over and the related subsequent earnings on the amounts;
    - i. Understands that if the member elects to roll over all or any portion of the member's distribution to an individual retirement account, it is the member's responsibility to separately account for pre-tax and post-tax amounts; and



- j. Understands that if the member elects a rollover to another employer plan or individual retirement account, any portion of the distribution not designated for rollover will be paid directly to the member and any taxable amounts will be subject to 20% federal income tax withholding and 5% state tax withholding;
- 8. Specify that:
  - a. The entire amount of the distribution be paid directly to the member,
  - b. The entire amount of the distribution be transferred to an eligible retirement plan, or
  - c. An identified amount of the distribution be transferred to an eligible retirement plan and the remaining amount be paid directly to the member; and
- 9. If the member selects all or a portion of the withdrawal be paid to an eligible retirement plan, specify;
  - a. The type of eligible retirement plan;
  - b. The eligible retirement plan account number, if applicable; and
  - c. The name and mailing address of the eligible retirement plan.
- E.** If the member requesting the withdrawal has been inactive for five years or more, and if the member's account balance is \$1,000 or more, the member requesting the withdrawal shall provide a copy of a driver license or a form of other government issued identification to the ASRS.
- ~~E.F.~~** If a payroll transaction for the member occurred with any ASRS employer within six months before the process date the member each ASRS employer shall complete and return to the ASRS an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form for each ASRS employer electronically that includes the following information:
  - 1. ~~Filled out by the member:~~
    - ~~a.~~ The member's full name, ~~and;~~
    - ~~b.2.~~ The member's Social Security number; ~~and~~
  - 2. ~~Filled out by each ASRS employer:~~
    - ~~a.3.~~ The member's termination date;:
    - ~~b.4.~~ The member's final pay period ending date;
    - ~~e.5.~~ The final amount of contributions, including any adjustments or corrections, but not including any long-term disability contributions;:
    - ~~d.6.~~ The ASRS employer's name and telephone number;
    - ~~e.7.~~ The employer number;
    - ~~f.8.~~ The name and title of the authorized employer representative;
    - ~~g.9.~~ Certification by the authorized employer representative that:
      - ~~i.a.~~ The member terminated employment and is neither under contract nor bound by any verbal or written agreement for employment with the employer;
      - ~~ii.b.~~ There is no agreement to re-employ the member; and
      - ~~iii.c.~~ The authorized employer representative has the legal power to bind the employer in transactions with the ASRS; and
    - ~~h.10.~~ The signature of the authorized employer representative and date of signature.
- ~~F.G.~~** If the member requests a return of contributions and a warrant is distributed during the fiscal year that the member began membership in the ASRS, no interest is paid to the account of the member.
- ~~G.H.~~** If the member requests a return of contributions after the first fiscal year of membership, the ASRS shall credit interest at the rate specified in Column 3 of the table in R2-8-118(A) to the account of the member as of June 30 of each year, on the basis of the balance in the account of the member as of the previous June 30. The ASRS shall credit interest for a partial fiscal year of membership in the ASRS on the previous June 30 balance based on the number of days of membership up to and including the day the ASRS issues the warrant divided by the total number days in the fiscal year. Contributions made after the previous June 30 are returned without interest.
- ~~H.I.~~** Upon submitting to the ASRS the completed and accurate Application for Withdrawal of Contributions and Termination of Membership form and, if applicable, after the ASRS has received any Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership forms, a member is entitled to payment of the amount due to the member as specified in subsection ~~(F)(G)~~ or ~~(G)(H)~~ unless a present or former spouse submits to the ASRS a domestic relations order that specifies entitlement to all or part of the return of contributions under A.R.S. § 38-773 before the ASRS returns the contributions as specified by the member.
- ~~H.J.~~** Upon the death of a member, the ASRS shall distribute the survivor benefits according to the most recent, acceptable documentation that is on file with the ASRS that was received prior to the date of the member's death, unless otherwise provided by law.
- ~~J.K.~~** If there is no designation of beneficiary or if the designated beneficiary predeceases the member, the survivor benefit is paid as specified in A.R.S. § 38-762(E). The designated beneficiary or other person specified in A.R.S. § 38-762(E) shall:
  - 1. Provide a certified copy of a death certificate or a certified copy of a court order that establishes the member's death;
  - 2. Provide a certified copy of the court order of appointment as administrator, if applicable; and
  - 3. Except if the deceased member was retired and elected the joint and survivor option, complete and have notarized an application for survivor benefits, provided by the ASRS, that includes:
    - a. The deceased member's full name,



- b. The deceased member’s Social Security number,
- c. The following, as it pertains to the designated beneficiary or other person specified in A.R.S. § 38-762(F):
  - i. Full name;
  - ii. Mailing address;
  - iii. Contact telephone number;
  - iv. Date of birth, if applicable; and
  - v. Social Security number or Tax ID number, if applicable.

**R2-8-118. Application of Interest Rates**

- A. No change
- B. At the beginning of each fiscal year, interest is credited to the retirement account of each member on the June 30 that marks the end of the fiscal year based on the balance in the member’s account as of the previous June 30. The balance on which interest is credited includes:
  - 1. Employer and employee contributions;
  - 2. Voluntary additional contributions made by members pursuant to A.R.S. §§ 38-742, 38-743, 38-744, and 38-745, if applicable;
  - 3. Amounts credited by transfer under A.R.S. § 38-924; and
  - 4. Interest credited in previous years.

**R2-8-122. Remittance of contributions**

- A. Remittance of employee member contributions: Each state department and employer member of the ~~Arizona State Retirement System ASRS~~, including, ~~without limitation~~, any county, municipality or political subdivision, shall certify on each payroll the amount to be contributed by each one of their employee members of the ~~Arizona State Retirement System ASRS~~ and shall remit the amount of employee member contributions to the ~~Arizona State Retirement System ASRS~~, together with such detailed report as may be required by the ~~System ASRS~~ to identify the individual owner of each such member contribution, not later than 14 calendar days after the last day of each payroll period. Payments of employee member contributions not received in the offices of the ~~Arizona State Retirement System ASRS~~ by the 14th calendar day after the last day of the applicable payroll period shall become delinquent after that date and shall be increased, by interest at the rate of eight percent per annum from and after the date of delinquency until payment is received by the ~~Arizona State Retirement System ASRS~~.
- B. Remittance of employer contributions: Each state department and employer member of the ~~Arizona State Retirement System ASRS~~, including, ~~without limitation~~, any county, municipality or political subdivision, shall remit the amount of employer contributions to the ~~Arizona State Retirement System ASRS~~ not later than 14 calendar days after the last day of each payroll period. Payments of employer contributions not received in the offices of the ~~Arizona State Retirement System ASRS~~ by the 14th calendar day after the last day of the applicable payroll period shall become delinquent after that date and shall be increased, by interest at the rate of eight percent per annum from and after the date of delinquency until payment is received by the ~~Arizona State Retirement System ASRS~~.

**R2-8-126. Calculating Benefits**

- A. No change
- B. An individual who is 104 years of age or older at the time of retirement ~~and who elects a life annuity~~ is not eligible to select ~~the an option of income for five years certain and for life thereafter.~~ life annuity with a term certain.
- C. An individual who is 93 years of age or older at the time of retirement ~~and who elects a life annuity~~ is not eligible to select ~~the option options of income for life annuity with ten years certain and or life annuity with 15 years certain. for life thereafter.~~ life annuity with ten years certain and or life annuity with 15 years certain.
- D. An individual who is 85 years of age or older at the time of retirement ~~and who elects a life annuity~~ is not eligible to select the option of ~~income for life annuity with 15 years certain and for life thereafter.~~ life annuity with 15 years certain.
- E. No change
- F. No change
- G. No change
- H. No change
- I. Notwithstanding subsection (H), a member who is ten or more years older than the member’s ex-spouse contingent annuitant is eligible to participate in a 100% joint-and-survivor option, if:
  - 1. The member selected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
  - 2. The member submits a DRO to the ASRS which requires the ex-spouse to be the contingent annuitant on the member’s account.
- J. Notwithstanding subsection (H), a member who is 24 or more years older than the member’s ex-spouse contingent annuitant is eligible to participate in a 66 2/3% joint-and-survivor option, if:
  - 1. The member selected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
  - 2. The member submits a DRO to the ASRS which requires the ex-spouse to be the contingent annuitant on the member’s account.



## NOTICE OF PROPOSED RULEMAKING

### TITLE 18. ENVIRONMENTAL QUALITY

#### CHAPTER 4. DEPARTMENT OF ENVIRONMENTAL QUALITY - SAFE DRINKING WATER

[R15-133]

#### PREAMBLE

- | <u>1. Article, Part of Sections Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|--------------------------|
| R18-4-102  | Amend                    |
| R18-4-103  | Amend                    |
| R18-4-105  | Amend                    |
| R18-4-121  | Amend                    |
| R18-4-126  | New Section              |
| R18-4-210  | Amend                    |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. Title 49, Chapter 2, Article 9, and the Safe Drinking Water Act, 42 U.S.C. 300f through 300j-26  
 Implementing statutes: A.R.S. §§ 49-351, 49-352, 49-353, 49-353.01
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
 Notice of Rulemaking Docket Opening: 21 A.A.R. 2296, October 9, 2015 (*in this issue*).
- 4. The agency's contact person who can answer question about the rulemaking:**  
 Name: Wendy LeStarge  
 Address: Arizona Department of Environmental Quality  
 1110 W. Washington St.  
 Phoenix, AZ 85007  
 Telephone: (602) 771-4836 (Toll-free number in Arizona: (800) 234-5677), ext. 771-4836  
 Fax: (602) 771-4834  
 Email: lestarge.wendy@azdeq.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**  
 The Arizona Department of Environmental Quality (ADEQ) is proposing to update its safe drinking water rules in order to conform to changes made to federal rules over the past seven years. The Governor's office approved an exception from E.O. 2015-01 on September 15, 2015.

ADEQ is required to develop rules that meet the "requirements established by the United States environmental protection agency for state primary enforcement responsibility of the safe drinking water act, including the requirements of 40 Code of Federal Regulations parts 141 and 142." A.R.S. § 49-353(A)(2)(a). ADEQ last amended these rules in 2008 by incorporating by reference the 2007 version of the U.S. Environmental Protection Agency's (EPA) federal rules (National Primary Drinking Water Regulations in 40 CFR 141.)

Since the 2008 rulemaking, EPA has made two major changes, which are described as follows:

#### Revised Total Coliform Rule (RTCR)

All public water systems (PWSs) are required to monitor for total coliforms, which serve as an indicator of other disease causing agents that can cause illness or death. In 2013, EPA revised the Total Coliform Rule by removing as a violation having minimal levels of total coliform present in a drinking water sample. EPA published minor corrections to the RTCR in February 2014 to correct typographical errors in sections relating to recordkeeping and State primacy requirements.

Under the previous federal rule (and ADEQ's current rule), a PWS can violate the Maximum Contaminant Level (MCL) for total coliforms in two ways:

- A non-acute violation requiring a public notice within 30 days:
  - A system collecting fewer than 40 samples per month has two or more total coliform positive samples in that month; or



◦ A system collecting 40 or more samples in a month has greater than five percent of samples collected that are total coliform positive.

- An acute violation for any presence of fecal coliform or E. coli (positive) in a repeat sample, or any presence of total coliform in a repeat sample following fecal coliform or E. coli (positive) routine. The PWS has to issue a public notice within 24 hours.

Under the 2013 RTCR, EPA eliminated the non-acute MCL for total coliforms and the public notification requirements for a non-acute violation, because the presence of total coliforms in and of themselves does not indicate a health threat. This revision relieves a PWS of the expense of required repeat sampling and providing public notice to customers. The “acute” total coliform MCL violation has been maintained as the MCL for E. coli under the RTCR, which is a more specific indicator of potential harmful pathogens than total coliforms. Also, the RTCR requires public notification when an E. coli MCL violation occurs, indicating a potential health threat, or when a PWS fails to conduct the required assessment and corrective action.

The RTCR allow states some discretion on which provisions they adopt and implement. ADEQ is incorporating by reference most of the RTCR amendments without modification, except for the following:

- 40 CFR 141.402(a)(4) is modified to allow the consecutive ground water system and wholesale ground water system the opportunity to trace back the source of total coliform-positive sample.
- 40 CFR 141.851(d) is not incorporated by reference because it concerns when EPA implements the rules.
- 40 CFR 141.852 and 141.853(c)(2) are not incorporated by reference because these sections concern analytical methods and laboratory certification. In Arizona, the Arizona Department of Health Services (ADHS) has statutory authority for the regulation of environmental laboratories, pursuant to A.R.S. § 36-495.01.
- 40 CFR 141.854(h)(2)(i)-(ii) are not incorporated by reference because these two provision are already required under A.A.C. R18-4-202 (Certified Operators) and R18-4-215 (Backflow Prevention). A PWS will have the remaining subsections (iii – v) to choose from for additional enhancements.

In R18-4-103(B), ADEQ is adding a definition for “protected source.” ADEQ is also making corresponding amendments to R18-4-210, Total Coliform; Special Events.

Lead and Copper Rule (LCR)

EPA does not regulate lead (or copper) through an MCL. Rather, PWSs must monitor drinking water at customer taps because lead enters drinking water primarily through corrosion of plumbing materials. If lead concentrations exceed an action level of 0.015 mg/l in more than 10% of customer taps sampled, the system must undertake a number of additional actions to control corrosion. If the action level for lead is exceeded, the system must also inform the public about steps they should take to protect their health and the system may also have to replace lead service lines under their control.

Shortly before ADEQ’s rules were final in 2008, EPA made changes to the LCR, as follows:

- Public education requirements are clarified and strengthened in the event lead and/or copper levels are exceeded;
- Clarified when a PWS must treat source water and replace service lines that contain lead if other options have been exhausted;
- When sampling at a customer’s tap for lead and copper, a PWS must now notify those customers of the results;
- A PWS must notify the State before adding a new water source or making any long-term treatment change (ADEQ has required this for many years under its design review rules for PWSs).

Separate from the LCR amendments, ADEQ is amending the definition of “Lead-free” in R18-4-103(B) to have the same meaning as A.R.S. § 49-353(B).

Additional Changes

ADEQ is making some minor updates.

- Amending the two definitions in R18-4-103(B) for ANSI/NSF Standard 60 and ANSI/NSF Standard 61 by updating the 2000 incorporation by reference to the 2014 versions.
- An inconsistency in R18-4-103(D) is corrected. R18-4-103(D)(12) had replaced text in 40 CFR 142.44(b) and 40 CFR 142.54(b) respectively, but had used the same term of “exemption” for both sections. 40 CFR 142.44 governs variances; 40 CFR 142.54 governs exemptions. ADEQ corrects this error in amended R18-4-103(D)(11). The previous substitution language in R18-4-103(D)(4) is now unnecessary and is deleted.
- In R18-4-105, ADEQ is adding Appendix A to its incorporation by reference of 40 CFR 141, Subpart C (40 CFR



141.21 through 141.29). EPA added Appendix A to Subpart C in 2007 and provides alternative testing methods approved for analyses under the Safe Drinking Water Act.

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

ADEQ staff reviewed and relied upon EPA's rule and associated guidance documents relevant to this rulemaking, including the Revised Total Coliform Rule, 78 FR 10270 (Feb. 13, 2013) and 79 FR 10665 (Feb. 26, 2014). EPA rules and guidance documents referenced above can be downloaded from EPA's total coliform rule web page at <http://water.epa.gov/lawsregs/rulesregs/sdwa/tcr/index.cfm>

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

Not applicable

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

Testing for disease causing agents (pathogens) is a necessary cost for PWSs to protect public health. Waterborne pathogens such as E. coli can lead to severe illness and death even in otherwise healthy individuals.

The RTCR should benefit all of Arizona's approximately 1,550 PWSs. Under the existing rule, if a PWS exceeds the MCL for total coliforms, the PWS has to issue a public notice, which in extreme cases can include a warning to boil water before using. Under the RTCR, what was a non-acute violation will no longer be a violation; consequently a PWS would not incur costs of additional monitoring and issuing public notice.

PWSs will have some costs in redoing their site sampling plans, required under 40 CFR 141.853(a) and incur time in becoming familiar with the RTCR requirements.

ADEQ will face implementation costs, mainly in the form of staff time. Staff will be developing new forms, presenting trainings to PWSs, and updating the drinking water database (Safe Drinking Information System – SDWIS/State) to accept sampling results.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Wendy LeStarge  
Address: Arizona Department of Environmental Quality  
1110 W. Washington St.  
Phoenix, AZ 85007  
Telephone: (602) 771-4836 (Toll-free number in Arizona: (800) 234-5677)  
Fax: (602) 771-4834  
E-mail: [lestage.wendy@azdeq.gov](mailto:lestage.wendy@azdeq.gov)

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

ADEQ has scheduled an oral proceeding to receive oral comments on the rules, in accordance with A.R.S. § 41-1023; the time, place, and location of the hearing are listed below:

Date: November 23, 2015  
Time: 10:00 a.m.  
Location: Arizona Department of Environmental Quality  
1110 W. Washington, Room 3175 A & B  
Phoenix, AZ 85007  
Nature: Oral Proceeding

Written, faxed, or e-mailed comments may be made with the contact person listed in item #4. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 5:00 p.m. November 23, 2015. Upon request, ADEQ will provide appropriate auxiliary aids and services to persons with disabilities, at no charge, to assist in accessible communication to enable people who have speech, hearing, vision, learning, or other impairments to participate equally, including qualified sign language interpreters. To request an auxiliary aid or service, to obtain this document in alternative format, or for further information, please contact Alicia Pollard at (602) 771-4791 or via email at [aap@azdeq.gov](mailto:aap@azdeq.gov) as early as possible to allow time to arrange the accommodation. TTY/TTD Services: 7-1-1. The ADA does not require ADEQ to take any action that would fundamentally alter the nature of its programs, services or activities, or impose an undue financial or administrative burden on ADEQ. This rulemaking's public record will close at 5:00 p.m. on November 23, 2015.



**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

This rule does not require permits, but establishes applicability and general prohibitions necessary to protect public health.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

The administrative rule is consistent with federal law and is no more stringent than federal law.

**c. Whether a person submitted an analysis to the agency that compares the rule’s impact on the competitiveness of business in this state to the impact on business in other states:**

No

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

R18-9-102(A) 40 CFR Parts 141 and 142, July 1, 2014 edition

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

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 4. DEPARTMENT OF ENVIRONMENTAL QUALITY - SAFE DRINKING WATER**

**ARTICLE 1. PRIMARY DRINKING WATER REGULATIONS**

Section

- R18-4-102. Incorporation by Reference of 40 CFR 141 and 142
- R18-4-103. General - 40 CFR 141, Subpart A
- R18-4-105. Monitoring and Analytical Requirements - 40 CFR 141, Subpart C
- R18-4-121. Ground Water Rule - 40 CFR 141, Subpart S
- R18-4-126. Revised Total Coliform Rule 40 CFR Part 141, Subpart Y

**ARTICLE 2. STATE DRINKING WATER REGULATIONS**

- R18-4-210. Total Coliform; Special Events

**ARTICLE 1. PRIMARY DRINKING WATER REGULATIONS**

**R18-4-102. Incorporation by Reference of 40 CFR 141 and 142**

A. Unless otherwise specified in this Chapter, all references to regulations in 40 CFR 141 and 142 in this Chapter refer to the July 1, ~~2007~~ 2014, version of the regulations. Copies of the incorporated material are available for review at the Arizona Department of Environmental Quality, 1110 W. Washington St., Phoenix, AZ, 85007, and are available from:

1. Code of Federal Regulations: U.S. Government Printing Office, online bookstore, <http://bookstore.gpo.gov/>; 866-512-1800; [orders@gpo.gov](mailto:orders@gpo.gov);
2. Federal Register: <http://www.gpoaccess.gov/fr/index.html> the U.S. General Printing office at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

B. A reference to a federal statute or regulation in a federal statute or regulation incorporated by reference in this Chapter shall refer to and incorporate by reference the referenced statute or regulation as of the date specified in subsection (A), unless the referenced statute or regulation is incorporated by reference elsewhere in this Chapter in a modified form, in which case the reference shall be to the statute or regulation as incorporated in this Chapter.

C. Documents incorporated by reference in a federal statute or regulation incorporated by reference in this Chapter are also incorporated by reference in this Chapter, as of the date specified in the federal statute or regulation.

D. A federal rule incorporated by reference in this Chapter shall include all “Effective Date Notes” associated with the federal rule.

E. The term “State” or “primacy agency” in the text of a federal statute or regulation incorporated by reference in this Chapter shall mean the Arizona Department of Environmental Quality unless otherwise noted.

**R18-4-103. General - 40 CFR 141, Subpart A**

A. 40 CFR 141, Subpart A (40 CFR 141.1 through 141.6), is incorporated by reference as of the date specified in R18-4-102, except for the changes listed in this Section; this incorporation does not include any later amendments or editions.

B. The definition of “State” in 40 CFR 141.2 is not incorporated by reference. In addition to the terms defined in A.R.S. §§ 49-201 and 49-351, and 40 CFR 141.2, in this Chapter, unless otherwise specified, the terms listed below have the following meanings.



“Air-gap separation” means a physical separation between the discharge end of a supply pipe and the top rim of its receiving vessel of at least 1 inch or twice the diameter of the supply pipe, whichever is greater.

“ANSI/NSF Standard 60” means American National Standards Institute/NSF International Standard 60 - ~~2000a~~ 2014a, Drinking Water Treatment Chemicals - Health Effects, November ~~2000~~ 17, 2014, incorporated by reference and on file with the Department. This material is available from NSF International, 789 N. Dixboro Road, P.O. Box 130140, Ann Arbor, MI 48113-0140, USA; (734) 769-8010; <http://www.nsf.org>. This incorporation by reference includes no future editions or amendments.

“ANSI/NSF Standard 61” means American National Standards Institute/NSF International Standard 61 - ~~2000a~~ 2014a, Drinking Water System Components - Health Effects, November ~~2000~~ October 19, 2014, incorporated by reference and on file with the Department. This material is available from NSF International, 789 N. Dixboro Road, P.O. Box 130140, Ann Arbor, MI 48113-0140, USA; (734) 769-8010; <http://www.nsf.org>. This incorporation by reference includes no future editions or amendments.

“Backflow” means a reverse flow condition that causes water or mixtures of water and other liquids, gases, or substances to flow back into the distribution system. Backflow can be created by a difference in water pressure (back-pressure), a vacuum or partial vacuum (backsiphonage), or a combination of both.

“Backflow-prevention assembly” means a mechanical device used to prevent backflow.

“Capacity” means the overall capability of a water system to consistently produce and deliver water meeting all national and state primary drinking water regulations in effect when new or modified operations begin. Capacity includes the technical, managerial, and financial capacities of the water system to plan for, achieve, and maintain compliance with applicable national and state primary drinking water regulations.

“Capacity development” means improving public water system finances, management, infrastructure, and operations, so that the public water system can provide safe drinking water consistently, reliably, and cost-effectively.

“Capacity development report” means an annual report adopted by the Department that describes progress made in improving technical, managerial, or financial capacity of public water systems in Arizona.

“Cross connection” means a physical connection between a public water system and any source of water or other substance that may lead to contamination of the water provided by the public water system through backflow.

“Distribution system” means a pipeline, appurtenance, device, and facility of a public water system that conducts water from a source or water treatment plant to persons served by the system.

“Department” means the Arizona Department of Environmental Quality.

“Double check valve assembly” means a backflow-prevention assembly that contains two independently acting check valves with tightly closing, resilient-seated shut-off valves on each end of the assembly and properly located, resilient-seated test cocks.

“Elementary business plan” means a document containing all of the items necessary for a complete review of the technical, managerial, and financial capacity of a new public water system under Article 6 of this Chapter.

“Entry point to the distribution system” means a compliance sampling point anywhere on a finished water line that is representative of a water source and located after the well, surface water intake, treatment plant, storage tank, or pressure tank, whichever is last in the process flow, but prior to where the water is discharged into the distribution system and prior to the first service connection.

“EPA” means the United States Environmental Protection Agency.

“Exclusion” means a waiver granted by the Department under R18-4-219 from a requirement of this Chapter that is not a requirement contained in a federal drinking water law.

“Exemption” means a form of temporary relief from a maximum contaminant level or treatment technique granted by the Department to a public water system, pending installation and operation of treatment facilities, acquisition of an alternate source, or completion of improvements in treatment processes to bring the system into compliance with drinking water regulations.

“Financial capacity” means the ability of a public water system to acquire and manage sufficient financial resources for the system to achieve and maintain compliance with the federal Safe Drinking Water Act.

“Groundwater system” means a public water system that is supplied solely by groundwater that is not under the direct influence of surface water.

“Lead-free” ~~means that the pipe, solder, or flux used in the installation or repair of a public water system, or in a residential or non-residential facility that provides water for human consumption and is connected to the public water system, meets the following criteria:~~

- ~~• No solders or flux contain more than 0.2% lead;~~
- ~~• No pipes or pipe fittings contain more than 8.0% lead; and~~



• When used with respect to plumbing fittings and fixtures intended by the manufacturer to dispense water for human ingestion, “lead free” means fittings and fixtures that are in compliance with ANSI/NSF Standard 61, Section 9. has the same meaning prescribed in A.R.S. § 49-353(B).

“Major stockholder” means a person who has 20% or more ownership interest in a public water system.

“Master priority list” means a list created by the Department that ranks public water systems according to the criteria in R18-4-803.

“Monitoring assistance program” means the program established by A.R.S. § 49-360 to assist public water systems with mandatory monitoring for contaminants and administered by the Department under 18 A.A.C. 4.

“Operational assistance” means professional or financial assistance provided to a public water system to improve the technical, managerial, or financial operations of the public water system.

“Protected water source” means a groundwater source that:

- Meets the requirements of A.A.C. R18-5-502(D);
- Is not located within 100 feet of a drywell as defined by A.R.S. § 49-331(3), and
- Is not located within 100 feet of a condition that can constitute an environmental nuisance as described in A.R.S. § 49-141(A).

“Reduced pressure principle backflow-prevention assembly” means a backflow-prevention assembly that contains two independently acting check valves; a hydraulically operating, mechanically independent pressure differential relief valve located between the two check valves; tightly closing, resilient seated shut-off valves on each end of the check valve assembly; and properly located resilient seated test cocks.

“Service connection” means a location at the meter or, in the absence of a meter, at the curbstop or building inlet.

“Service line” means the water line that runs from the corporation stop at a water main to the building inlet, including any pigtail, gooseneck, or fitting.

“State” means the Arizona Department of Environmental Quality, except during any time period during which the Department does not have primary enforcement responsibility pursuant to Section 1413 of the Act, the term “State” means the Regional Administrator of EPA Region 9.

“System evaluation assistance” means assistance provided to assess the status of the public water system's technical, managerial, and financial components, with emphasis on infrastructure status.

“Technical assistance” means operational assistance, system evaluation assistance, or both.

“Treatment” means a process that changes the quality of water by physical, chemical, or biological means.

“Treatment technique” means a treatment procedure promulgated by EPA in lieu of an MCL.

“Variance” means relief from a maximum contaminant level or treatment technique granted by the Department to a public water system when characteristics of a system's raw water source preclude the system from complying with maximum contaminant levels prescribed by drinking water regulations, despite application of best technology, treatment techniques, or other means available to the system.

“Water main” means a pipe that is exterior to buildings and is used to distribute drinking water to more than one property.

“Water Infrastructure Finance Authority” means the entity created under A.R.S. § 49-1201 et seq. to provide financial assistance to political subdivisions, Indian tribes, and eligible drinking water facilities for constructing, acquiring, or improving wastewater treatment facilities, drinking water facilities, nonpoint source projects, and other related water quality facilities and projects.

“Water treatment plant” means a process, device, or structure used to improve the physical, chemical, or biological quality of the water in a public water system. A booster chlorination facility that is designed to maintain an effective disinfectant residual in water in the distribution system is not a water treatment plant.

- C. 40 CFR 141.4, entitled “variances and exemptions,” is incorporated by reference subject to the following modifications:
1. The phrase “entity with primary enforcement responsibility” is changed to “Department.”
  2. When reviewing and acting on requests for variances and exemptions, the Department shall act in accordance with the procedures at 42 U.S.C. 300g-4 and 300g-5 (2004) of the Act (Public Health Service Act §§ 1415 and 1416), including:
    - a. The Department shall require a public water system granted a variance under subsection (C) to comply with the requirements in a compliance schedule as expeditiously as practicable.
    - b. The Department shall promptly notify EPA of all variances and exemptions granted by the Department in the manner specified in the Act.
    - c. The Department shall enforce a schedule or other requirement on which a variance or exemption is conditioned under 42 U.S.C. 300g-3 and A.R.S. § 49-354, as if the schedule or other requirement is part of a national primary drinking water regulation incorporated by reference in this Chapter.



- d. "Treatment technique requirement," for the purpose of subsection (C), means a requirement in a national primary drinking water regulation which specifies for a contaminant, in accordance with 42 U.S.C. 300f(1)(C)(ii), each treatment technique known to lead to a reduction in the level of the contaminant sufficient to satisfy the requirements of 42 U.S.C. 300g-1(b).
  - e. If the Department grants a variance or exemption, the Department shall prescribe:
    - i. A compliance schedule that includes increments of progress or measures to develop an alternative source of water supply; and
    - ii. An implementation schedule that includes such control measures as the Department deems necessary for each contaminant.
- D.** 40 CFR 142, 142.2, 142.20, and Subparts E, F, G, and K, are incorporated by reference as of the date specified in R18-4-102, with the following changes; this incorporation does not include any later amendments or editions. The following substitutions are to be applied in the listed order.
1. 40 CFR 142.46, 142.302, 142.313 are not incorporated by reference.
  2. 40 CFR 142.20(a), (b). The phrase "States with primary enforcement responsibility" is changed to "the Department"; the second sentences in 142.20(a) and 142.20(b) are deleted.
  3. 40 CFR 142.60(b), 142.61(b). The phrase "Administrator in a state that does not have primary enforcement responsibility or a state with primary enforcement responsibility (primacy state) that issues variances" is changed to "Department."
  4. ~~40 CFR 142.44(b)(2), 142.54(b)(2). The phrase "the agency of the State in which the system is located which is responsible for the State's water supply program[,] and to" is deleted; "Administrator's" is changed to "Department's."~~
  5. 40 CFR 142.40(a), (b); 142.41; 142.50(a); 142.51. The phrase "a State that does not have primary enforcement responsibility" is changed to "Arizona".
  - 6-5. 40 CFR 142.60(b), (c), (d); 142.61(b), (c). The phrase "Administrator or ['primacy' or 'primary'] state that issues variances" is changed to "Department."
  - 7-6. 40 CFR 142.60(b), (d); 142.61(b), (d); 142.62(e), (g)(1); 142.65(a)(4). The phrase "Administrator or [the] primacy state" is changed to "Department"; the phrase "Administrator's or primacy state's" is changed to "Department's."
  - 8-7. In 40 CFR 142, Subpart K:
    - a. The phrases "[ 'a' or 'the' ] State or [the] Administrator," "Administrator or State," "the public water system, State and the Administrator," and "a State exercising primary enforcement responsibility for public water systems (or the Administrator for other systems)" are changed to "the Department."
    - b. 40 CFR 142.301. The last sentence is deleted.
    - c. 40 CFR 142.303(b). The phrase "a State exercising primary enforcement responsibility for public water systems" is changed to "the Department."
    - d. 40 CFR 142.306(b)(2). The phrase "(or by the Administrator in States which do not have primary enforcement responsibility)" is deleted.
    - e. 40 CFR 142.308(a), 142.309(c). The phrase "the State, Administrator, or [the] public water system as directed by the State or Administrator" is changed to "the Department or the public water system, as determined by the Department."
    - f. 40 CFR 142.308(b). The text of this subsection is replaced by the following: "At the time of proposal, the Department must publish a notice in the Arizona Administrative Register or a newspaper or newspapers of wide circulation in the affected region of the State. This notice shall include the information listed in paragraph (c) of this section."
    - g. 40 CFR 142.308(c)(7). The phrase "the primacy agency" is changed to "the Department."
  - 9-8. In all parts of 40 CFR 142 incorporated by reference other than Subpart K, the term "Administrator" is changed to "Department"; the pronoun "he" is changed to "the Department"; and the pronoun "his" is changed to "the Department's."
  - 10-9. In all parts of 40 CFR 142 incorporated by reference, the term "a state" or "the state" is changed to "the Department"; the term "the State's" is changed to "the Department's."
  - 11-10. 40 CFR 142.62(h)(3). The term "State-approved" is changed to "Department-approved."
  12. ~~40 CFR 142.44(b), 142.54(b). The text of these subsections is replaced by the following: "Public notice of an opportunity for hearing on an exemption schedule shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed schedule, and shall meet the notice requirements of A.A.C. R18-1-401."~~
  11. In 40 CFR 142.44 and 142.54:
    - a. CFR 142.44(b). The text of this subsection is replaced by the following: "Public notice of an opportunity for hearing on a variance schedule shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed schedule, and shall meet the notice requirements of A.A.C. R18-1-401."



b. 142.54(b). The text of this subsection is replaced by the following: “Public notice of an opportunity for hearing on an exemption schedule shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed schedule, and shall meet the notice requirements of A.A.C. R18-1-401.”

~~13-12.~~ 40 CFR 142.44(d), 142.54(d). The third, fourth, and fifth sentences of these subsections are deleted.

~~14-13.~~ 40 CFR 142.44(e), 142.54(e). The text of these subsections is replaced by the following: “A hearing convened pursuant to paragraph (d) of this section shall be conducted according to the procedural requirements of A.A.C. R18-1-402.”

E. 40 CFR 141.5 is not incorporated by reference.

**R18-4-105. Monitoring and Analytical Requirements - 40 CFR 141, Subpart C**

A. 40 CFR 141, Subpart C (40 CFR 141.21 through 141.29 and Appendix A), is incorporated by reference as of the date specified in R18-4-102, subject to the modifications specified in this Section; this incorporation does not include any later amendments or editions.

B. 40 CFR 141.21, coliform sampling, is modified as follows:

1. 40 CFR 141.21(a)(3)(i): the phrase “each calendar quarter” is replaced with “each calendar month.”

2. 40 CFR 141.21(a)(3)(i) and (ii): the phrase “less than once/year” is replaced with “less than one sample per quarter.”

3. 40 CFR 141.21(c)(2), 141.21(d) and 141.21(f) are not incorporated by reference.

~~C.~~ 40 CFR 141.22: the last sentence of 141.22(a) is replaced by the following: “Turbidity measurements shall be made using analytical methods approved by EPA and the Arizona Department of Health Services.”

~~D-C.~~ 40 CFR 141.23(k) is not incorporated by reference.

~~E-D.~~ 40 CFR 141.24(f)(17), 141.24(f)(20), and 141.24(h)(19) are not incorporated by reference.

~~F-E.~~ 40 CFR 141.25: the following text replaces the text of 40 CFR 141.25(a) and (b): “Analysis for the following contaminants shall be conducted to determine compliance with 40 CFR 141.66 (radioactivity) using analytical methods approved by EPA and the Arizona Department of Health Services:

1. Naturally occurring contaminants: gross alpha and beta, gross alpha, radium 226, radium 228, and uranium.

2. Man-made contaminants: radioactive cesium, radioactive iodine, radioactive strontium 89, 90, tritium, and gamma emitters.”

~~G-E.~~ 40 CFR 141.27, alternate analytical techniques, is not incorporated by reference; the following text is substituted in its place: “The use of an alternate analytical technique approved by EPA and the Arizona Department of Health Services shall not decrease the frequency of monitoring required by this Chapter.”

~~H-G.~~ 40 CFR 141.28:

1. In 40 CFR 141.28(a), the term “State” is changed to “Arizona Department of Health Services.”

2. In 40 CFR 141.28(b), the term “State” is changed to “Arizona Department of Health Services or Arizona Department of Environmental Quality.”

3. A new subsection (c) is added: “A laboratory that performs drinking water analysis in Arizona shall be certified by EPA or the Arizona Department of Health Services.”

**R18-4-121. Ground Water Rule - 40 CFR 141, Subpart S**

A. 40 CFR Part 141, Subpart S (40 CFR 141.400 through 141.405), is incorporated by reference as of the date specified in R18-4-102, subject to the modifications specified in this Section; this incorporation does not include any later amendments or editions.

B. 40 CFR 141.402(a)(4) is modified as follows:

Consecutive and wholesale systems.

(i) In addition to the other requirements of this paragraph (a), a consecutive ground water system that has a total coliform-positive sample, collected under § 141.21(a) until March 31, 2016 or under §§ 141.854 through 141.857 beginning April 1, 2016, within 24 hours of being notified of the total coliform-positive sample must:

(A) Notify the wholesale system(s) and,

(B) Collect a sample from its consecutive connection with the wholesale ground water system and analyze it for a fecal indicator under paragraph (c) of this section.

(ii) If the sample collected under paragraph (a)(4)(i)(B) of this section is fecal indicator-positive, within 24 hours:

(A) The consecutive system must notify the wholesale ground water system, and

(B) Both systems must consult with the Department on additional sampling to meet the requirements of paragraph (a)(3) of this section.

**R18-4-126. Revised Total Coliform Rule 40 CFR Part 141, Subpart Y**

A. 40 CFR Part 141, Subpart Y (40 CFR 141.851 through 141.861), is incorporated by reference as of the date specified in R18-4-102, subject to modifications specified in this Section; this incorporation does not include any later amendments or editions.

B. 40 CFR 141.851(d), 141.852, 141.853(c)(2), and 141.854(h)(2)(i) – (ii) are not incorporated by reference.



## ARTICLE 2. STATE DRINKING WATER REGULATIONS

**R18-4-210. Total Coliform; Special Events**

- A.** A water system that does not meet the definition of a public water system, but serves a large number of persons for a short duration of time, such as a special event, ~~shall comply with the MCL for total coliform if the~~ must take corrective action as required in R18-4-126 after receiving a positive coliform result, including taking additional samples until all samples test negative for total coliform and negative for E.coli if:
1. The total number of user-days exceeds 600.
  2. A user-day is calculated by multiplying the number of days the event will run by the average number of persons expected to be served each day.
- B.** The water system shall submit a minimum of two ~~samples~~ sample results to the Department at least seven days before the beginning of the special event. The water system shall submit a minimum of one additional sample result to the Department for each day of the special event.

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## NOTICES OF RULEMAKING DOCKET OPENING

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This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an "announcement" that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

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### NOTICE OF RULEMAKING DOCKET OPENING

#### RADIATION REGULATORY AGENCY

[R15-148]

- 1. Title and its heading:** 12, Natural Resources
- Chapter and its heading:** 1, Radiation Regulatory Agency
- Article and its heading:** 1, General Provisions  
3, Radioactive Material Licensing  
4, Standards for Protection against Ionizing Radiation  
5, Sealed Source Industrial Radiography  
7, Medical Uses of Radioactive Material  
13, License and Registration Fees  
15, Transportation  
~~18, Reserved~~  
19, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material
- Section numbers:** R12-1-102, R12-1-303; R12-1-306, R12-1-308, R12-1-311, R12-1-313, R12-1-320, R12-1-323, R12-1-418, R12-1-452, R12-1-503, R12-1-703, R12-1-1302, R12-1-1512, R12-1-1901 through R12-1-1999; R12-1-19100 through R12-1-19109, Appendix A (*Sections may be added, deleted, or modified as necessary.*)
- 2. Subject matter of the proposed rules:**  
This rulemaking package amends several rules to create security requirements mandated by the Agreement State document that Arizona entered into with the U.S. Nuclear Regulatory Commission (formerly the Atomic Energy Commission) authorized by A.R.S. § 30-656 authorizing the governor of Arizona to enter into the agreement. In accordance with Public Law 83-703, Title 1- Atomic Energy, Chapter 19, Section 274, as well as Article VI of the Agreement signed the 30th day of March 1967 by Jack Williams, Governor of Arizona [F.R. Doc. 67-4212; Filed, Apr. 17, 1967 8:48 a.m.], Agreement States delegated authority to regulate nuclear material will substantially adopt the rules and language used by the U.S. NRC in order to be compatible nationally to standards of protection. In addition, A.R.S. § 30-654(B)(6) requires the Agency to be as nearly as possible in conformity with the regulations of the NRC.
- Agency docket number:**  
RMP-0078
- 3. A citation to all published notices relating to the proceedings:**  
None
- 4. Name and address of Agency personnel with whom persons may communicate regarding the rules:**  
Name: Jerry W. Perkins  
Address: Radiation Regulatory Agency  
4814 S. 40th St.  
Phoenix, AZ 85040



Telephone: (602) 255-4833  
 Fax: (602) 437-0705  
 E-mail: jperkins@azrra.gov

**5. The time during which the agency will accept written comments and the time and place where oral comment may be made:**

Written comments and oral comments will be accepted 8:00 a.m. to 5:00 p.m., Monday through Friday at the Arizona Radiation Regulatory Agency, 4814 S. 40th St., Phoenix, AZ 85040 through November 16th, 2015. Details related to an oral proceeding will be provided in the Notice of Proposed Rulemaking.

**6. A timetable for agency decisions or other action in the proceeding, if known:**

Not available at this time.

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
 SAFE DRINKING WATER**

[R15-134]

**1. Title and its heading:**

18, Environmental Quality

**Chapter and its heading:**

4, Department of Environmental Quality – Safe Drinking Water

**Articles and their headings:**

1, Primary Drinking Water Regulations  
 2, State Drinking Water Regulations

**Section numbers:**

R18-4-102, R18-4-103, R18-4-105, R18-4-121, R18-4-126,  
 R18-4-210 (*Sections may be added, deleted, or modified as necessary*)

**2. The subject matter of the proposed rule:**

The Arizona Department of Environmental Quality (ADEQ) is proposing to update its safe drinking water rules in order to conform to changes made to federal rules over the past seven years. ADEQ plans to incorporate by reference the Revised Total Coliform Rule into a new section, and make corresponding changes in other sections. ADEQ also plans to incorporate by reference the 2007 changes to the Lead and Copper Rule. ADEQ is authorized to enforce federal drinking water standards under A.R.S. § 49-353(A)(2)(a).

**3. A citation to all published notices relating to the proceeding:**

Notice of Proposed Rulemaking: 21 A.A.R. 2286, October 9, 2015 (*in this issue*).

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

Name: Wendy LeStarge  
 Telephone: (602) 771-4836, or (800) 234-5677, ext. 771-4836  
 Fax: (602) 771-4834  
 E-mail: lestarge.wendy@azdeq.gov  
 Address: Arizona Department of Environmental Quality  
 1110 W. Washington St. (5415B-2)  
 Phoenix, AZ 85007  
 Web Site: www.azdeq.gov

**5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

Written comments on this rulemaking may be submitted at any time to the person referenced in item # 4 above. Formal written comments for the rulemaking record should be submitted after publication of the notice of proposed rulemaking in the *Arizona Administrative Register* and prior to the close of public record date, which has not yet been determined.

**6. A timetable for agency decisions or other action on the proceeding, if known:**

See the Notice of Proposed Rulemaking on page 2286 of this issue.



NOTICES OF PUBLIC INFORMATION

Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the Register.

Because of the variety of Notices of Public Information, the Office of the Secretary of State has not established a specific publishing format for these notices. We do however require agencies to use a numbered list of questions and answers and follow our filing requirements by presenting receipts with electronic and paper copies.

NOTICE OF PUBLIC INFORMATION
DEPARTMENT OF ENVIRONMENTAL QUALITY

[M15-237]

- 1. A.R.S. Title and its heading: 49, The Environment
A.R.S. Chapter and its heading: 2, Water Quality Control
A.R.S. Article and its heading: 2.1, Total Maximum Daily Loads
Section: A.R.S. § 49-234, Total maximum daily loads; implementation plans

2. The public information relating to the listed statute:

Pursuant to A.R.S. § 49-234, the Arizona Department of Environmental Quality (Department or ADEQ) is required to develop a total maximum daily load (TMDL) for navigable waters that are listed as impaired. The purpose of this notice is to publish the Department’s determinations of total pollutant loadings for a TMDL for Granite Creek in Prescott, Arizona that the Department intends to submit to the Regional Administrator for Region 9, U.S. Environmental Protection Agency (EPA) for approval.

Public notice of the opportunity for public comment on the draft “Granite Creek E. coli TMDL” and associated “Modeling Report” was published in The Prescott Courier newspaper for general circulation in the vicinity of the impaired reaches, on November 26, 2014. The public comment period extended from December 11, 2014 to January 29, 2015.

3. Total Maximum Daily Loads (TMDLs)

A. TMDL Process

A TMDL represents the total load of a pollutant that can be assimilated by a waterbody on a daily basis and still meet the applicable water quality standard. The TMDL can be expressed as the total mass or quantity of a pollutant that can enter the waterbody within a unit of time. In most cases, the TMDL determines the allowable concentration or density of a pollutant in units per day and divides it among the various contributors in the watershed as wasteload (i.e., point source discharge) and load (i.e., nonpoint source) allocations. The TMDL must also account for natural background sources and provide a margin of safety.

In Arizona, as in other states, changes in standards or the establishment of site-specific standards are the result of ongoing science-based investigations or changes in toxicity criteria from EPA. Changes in designated uses and standards are part of the surface water quality standards triennial review process and are subject to public review. Standards are not changed simply to bring the waterbody into compliance, but are based on sound science that includes evaluation of the risk of impact to humans or aquatic and wildlife communities. Existing uses of the waterbody and natural conditions are considered when standards for specific water segments are established.

These TMDLs meet or exceed the following EPA Region 9 criteria for approval:

Plan to meet State Surface Water Quality Standards: The TMDLs include a study and a plan for the specific pollutants that must be addressed to ensure that applicable water quality standards are attained.

Describe quantified water quality goals, targets, or endpoints: The TMDL must establish numeric endpoints for



the water quality standards, including beneficial uses to be protected, as a result of implementing the TMDLs. This often requires an interpretation that clearly describes the linkage(s) between factors impacting water quality standards.

**Analyze/account for all sources of pollutants:** All significant pollutant sources are described, including the location and the magnitude of sources where data is available.

**Identify pollution reduction goals:** The TMDL plan includes pollutant reduction targets for all point and nonpoint sources of pollution.

**Describe the linkage between water quality endpoints and pollutants of concern:** The TMDLs must explain the relationship between the numeric targets and the pollutants of concern and determine whether the recommended pollutant load allocations exceed the loading capacity of the receiving water.

**Develop margin of safety that considers uncertainties, seasonal variations, and critical conditions:** The TMDLs must describe how any uncertainties regarding the ability of the plan to meet water quality standards have been addressed. The plan must consider these issues in its recommended pollution reduction targets.

**Provide implementation recommendations for pollutant reduction actions and a monitoring plan:** The TMDLs should provide a specific process and schedule for achieving pollutant reduction targets. A monitoring plan should also be included, especially where management actions will be phased in over time and to assess the validity of the pollutant reduction goals.

**Include an appropriate level of public involvement in the TMDL process:** This is met by publishing public notice of the TMDLs in a newspaper of general circulation in the area affected by the study, circulating the TMDLs for public comment, and holding public meetings in local communities. Public involvement must be documented in the state's TMDL submittal to EPA Region 9.

**In addition, these TMDLs specifically comply with the public notification requirements of A.R.S. Title 49, Chapter 2, Article 2.1 through this public notice:** Publication of these TMDLs in the Arizona Administrative Review (A.A.R.) is required per Arizona Revised Statute, Title 49, Chapter 2, Article 2.1 prior to submission of the TMDL to EPA. The Department shall:

1. Prepare a draft estimate of the total amount of each pollutant that causes impairment from all sources that may be added to a navigable water while still allowing the navigable water to achieve and maintain applicable surface water quality standards;
2. Determine draft allocations among the contributing sources that are sufficient to achieve the total loadings;
3. Provide public notice and allow for comment on each draft estimate and draft allocation and shall prepare written responses to comments received on the draft estimates and draft allocations.
4. Publish the determinations of total pollutant loadings that will not result in impairment and the draft allocations among the contributing sources that are sufficient to achieve the total loadings that it intends to submit initially to the regional administrator, along with a summary of the responses to comments on the estimated loadings and allocations, in the A.A.R. at least forty-five days before the submission of the loadings and allocations to the regional administrator.

Federal law only requires the submittal of the pollutant loadings to EPA for approval. However, the Department considers the pollutant loadings and the draft allocations to be integrally related and that they should be presented together to afford the public a complete understanding of the issues, outcomes and recommendations of the TMDL analysis. For that reason, the Department has combined the loadings and allocations in this publication in the A.A.R.

***B. TMDL for Granite Creek***



BACKGROUND

In 2010, Granite Creek and one of its tributaries Miller Creek, were listed on the State’s 303(d) Impaired Waters List as impaired for *Escherichia coli* (*E. coli*) based on sample results from 2007 and 2008. The listings have been confirmed in subsequent assessments and two additional tributaries, Butte Creek and Manzanita Creek, were listed for *E. coli* in 2012. TMDL sampling within the Upper Granite Creek Watershed was initiated in late 2007 and continued through August of 2014. Samples were collected at several points on the typical hydrograph for multiple locations and for subwatersheds and tributaries feeding the impaired reaches. Critical conditions for *E. coli* exceedances were determined to be both summer monsoon and winter storms flows. This TMDL includes load and waste load allocations developed to ensure that Granite Creek and its tributaries will meet the single sample maximum (SSM) *E. coli* standard of 235 colony forming units (cfu) per 100 ml. The 2012 Watershed Improvement Plan is being updated to include TMDL analysis and prioritization of best management practices and possible projects for TMDL implementation.

TMDL CALCULATIONS

The mass balance TMDL calculations are based on flow and load duration curves generated at the two USGS gauges above Watson Lake.

The TMDL or loading capacity and the resulting load reductions necessary to meet the TMDL is determined using the TMDL equation:

$$TMDL = \sum WLA + \sum LA + MOS$$

Where WLA is waste load allocation (point sources), LA is load allocation (nonpoint sources and natural background), and MOS is a margin of safety. Loading capacity, existing loads, and reductions needed for water quality standard attainment are calculated for Granite Creek as mass loads in Giga-organisms per day (G-orgs/day) to the creek and concentration targets in cfu/100 ml for permitted and non-permitted sources. Analysis of watershed data is provided to guide further source determination and prioritization of locations for application of best management practices. Background loading from Prescott National Forest was estimated on a storm event basis.

LOAD REDUCTIONS

Load Reductions (LR) are needed when the existing load is larger than the LA calculated using the TMDL equation. The LR can be calculated by:

$$LR = \text{Existing load} - (LA + \text{Natural background} + MOS)$$

The percent reduction needed is calculated by using:

$$\% \text{ Reduction} = (LR / \text{Existing Load}) * 100$$

TMDLs identify the amount of pollutant that can be assimilated by the waterbody and still meet water quality standards. In order to calculate *E. coli* mass load in Giga-organisms per day (G-orgs/day) from discharge in cubic feet per second (cfs), a conversion factor is required. The conversion factor of 0.02445 serves to convert the product of *E. coli* densities and flows into daily loads and is derived as follows:

$$1 \text{ cfu}/100\text{ml} \times 1000\text{ml}/1\text{L} \times 28.3\text{L}/1 \text{ ft}^3 \times 86,400 \text{ sec}/1 \text{ day} \times 1 \text{ G-org}/1 \times 10^9 \text{ cfu}$$

MARGIN OF SAFETY (MOS)

The MOS is intended to account for uncertainties and random variations associated with data collection, lab analysis, equipment and method precision and accuracy limitations, modeling, and random error associated with flow measurements. The MOS for this TMDL is implicit rather than explicit. The 0.75 upper confidence limit (UCL) median flow value was chosen due to uncertainties in the median value associated with limited sampling events to evaluate at most sites. This allows for an implicit margin of safety in the target load value that is reasonable when assessed in comparison with other *E. coli* TMDLs.

NATURAL BACKGROUND

The determination of natural background was made from ranking loads from samples collected in headwater sub-watersheds of upper Miller, upper Granite Creek, and Upper Aspen Creek. The 90<sup>th</sup> percentile load value was

selected as representative stormflow loading, corresponding to 18.98 G-cfu/day, or 50.4 cfu/100 ml at a flow of 15.4 cfs.

**TMDL ALLOCATIONS**

The TMDL contains both a concentration-based target of 235 cfu/100 ml to be met at all locations in the watershed, and a load-based target set at both USGS gauges. In practical application, meeting the concentration-based target will achieve the load-based target, and vice-versa. With the inclusion of an implicit MOS and background, reductions necessary to meet the SSM *E. coli* standards at these locations are 92.8 percent and 94.9 percent respectively (Table 1). These aggregated load reductions will be used as the benchmark for meeting the TMDL instream target and for assessing cumulative watershed improvements.

Table 1. Aggregated Loads and Allocations (G-cfu/day<sup>1</sup>)

TMDL Static Load Sites	Target Flow (cfs)	TMDL Target Load	Existing Load	Percent Reduction	Natural Background	Total Allocation	LA 50%	WLA 50%	Concentration Target (cfu/100 ml)
Lower USGS Gauge #09503000	53	304.5	4,200.3	92.8	18.9	295.5	144.7	144.7	235
Upper USGS Gauge #09502960	18.3	105.2	2,070.6	94.9	18.9	86.2	43.1	43.1	235

<sup>1</sup>G-cfu/day = 1 billion cfu/day = *E. coli* concentration (#cfu/100 ml) \* cfs (discharge \* conversion factor of 0.02446)

**LOAD ALLOCATIONS**

Nonpoint sources are diffuse sources not regulated under a surface water discharge permit. Load allocations for nonpoint source entities have been included in Table 2 for completeness and to show that the total *E. coli* allocation is essentially split 50-50 between nonpoint sources and point sources, based on jurisdictional area within the Watson Lake watershed. The urbanized area accounts for 14 percent of the watershed but approximately 50 percent of the TN and TP load (Tetra Tech, 2012). Mass based load targets for *E. coli* are similarly divided 50-50 for point source and nonpoint source inputs based on watershed area. Nonpoint source contributions from the watershed may come from either natural background conditions or anthropogenic sources. Mass based LAs for *E. coli* are calculated in the aggregate to be met at each USGS gauge depending on the reduction needed. Within the watershed, LAs are set at the SSM standard for *E. coli* to be met by all nonpoint sources.

**WASTE LOAD ALLOCATIONS (WLA)**

Wasteload allocations are assigned to entities with individual or general Arizona Discharge Pollution Elimination System (AZPDES) stormwater permits. Collectively, the permitted point sources, Municipal Stormwater (MS4) permit, Multi-sector General permits (MSGP), and Construction General permits (CGP) are assigned a concentration based WLA equal to 235 cfu/100 ml. This WLA is applied, as a water quality based effluent limit (WQBEL), to all existing and future AZPDES (individual and general) permittees within the Upper Granite Creek watershed. The WLA applies to discharges that occur in response to precipitation events and is applicable for each separate discharge that may issue from the permitted entity or site. The exception is for MS4 permits where the WLA is expressed as a system-wide requirement. Permittees can demonstrate compliance with the WLA by either direct sampling of outfall discharges or demonstrate that best management practices quantitatively reduce the discharge of pollutants to a level that meets the WQBEL. If single grab samples exceed the WLA, permittees should evaluate the effectiveness of BMPs, modify or implement new BMPs, or provide additional measures to improve water quality.

Table 2 breaks the total allocation down by land manager and the percent of the watershed under each jurisdiction. Each allocation is identified as either a load allocation (LA) for nonpoint source, or wasteload allocation (WLA) for point source.



Table 2. Load Allocations and Wasteload Allocations by Land Manager (G-cfu/day)

Land Manager	Square Miles <sup>1</sup>	Percent of Watershed	LA at #0902960	WLA at #0902960	LA at #09503000	WLA at #09503000	Concentration Target (cfu/100 ml)
Unallocated LA Reserve 10% of LA TBA			4.3		14.5		
Prescott Forest	18.1	40	34.3		115.3		
State Lands	2.2	5.0	4.3		14.4		
Military (VA)	0.08	0.2	0.17		0.58		
Total Nonpoint Source	20.4	45.2					
All Nonpoint Source							235
Unallocated WLA Reserve 10% of WLA ADOT MS4, MSGP, CGP, Other TBD				4.3		14.5	
City of Prescott MS4	17.6	39.0		30.8		103.7	
Yavapai County MS4	4.5	10.0		7.9		26.6	
Total Point Source	22.0	49.0					
Total Nonpoint + Point Source		94.2 <sup>2</sup>					
All Point Source							235

<sup>1</sup>as cited in 2012 WIP; <sup>2</sup> does not include tribal land

The Arizona Department of Transportation (ADOT) has an individual Municipal Stormwater (MS4) permit. ADOT is not a generator but a conveyance system and their permit is statewide. General permits that have been issued within the watershed include the City of Prescott MS4, Yavapai County MS4, and several MSGPs and CGPs. MS4 and MSGP facilities covered under AZPDES permits are detailed in Table 3. CGPs are numerous and relatively short-lived, so they are not listed.

Beyond the general guidelines presented in the following paragraph regarding points of compliance for WLAs (discharge locations to waters carrying the FBC designated use), the ADEQ Stormwater Unit shall establish more specific locations when necessary on a case-by-case basis where dischargers under all general or individual permits (MS4, MSGP, CGP) issued by ADEQ are expected to meet their WLAs. The ADEQ Stormwater Unit shall also determine whether *E. coli* loading to tributaries or the main-stem of Granite Creek from all future general permittees has reasonable potential to occur in their permit reviews. If there is such reasonable potential, new permittees will be subject to the appropriate concentration-based WLA in this TMDL. Otherwise, new permittees' WLA shall be 0 cfu/100 ml.

The point of compliance for WLAs for all discharges from MS4, MSGP, CGP, or individual AZPDES permit operations shall be the point of discharge to a reach carrying a FBC designated use. All entities subject to individual and general AZPDES permit requirements will be considered to be operating consistent with the provisions of this TMDL if they adhere to the terms of their discharge permits as expressed for *E. coli* concentration.



Table 3. Permittees in the Watson Lake watershed (CGPs not listed)

Permit No.	Issue Date	Permit Type	Permittee Name
AZMS4-2002-30	2002	MS4	City of Prescott: Storm Water
AZMS4-2002-40	2002	MS4	Yavapai County: Storm Water
AZS000018	2008	MS4	AZ Dept. of Transportation: Storm Water
AZMSG-60156	5/27/11	MSGP	Fann Contracting Inc.: Trucking
AZMSG-60592	7/19/11	MSGP	Lamb RV Storage: Transit
AZMSG-68954	3/29/12	MSGP	City of Prescott: Sundog Treatment Works
AZMSG-68974	3/29/12	MSGP	City of Prescott: Transfer Station & Service
AZMSG-83190	11/24/14	MSGP	Yavapai Block Company, Inc.

**4.0 ADEQ Response to comments on draft Granite Creek TMDL**

**EPA Region 9**

**Specific Comment #1:**

Water Quality Standards and Margin of Safety (MOS), Section 3

Page 3 of the TMDL describes “Arizona’s 2009 water quality standard for *E. coli*”, and this is confusing. The year “2009” should be removed, or replaced with “approved”.

Response #1: 2009 has been removed and “approved” has been added, now on page 4.

**Specific Comment #2:**

The TMDL should state that the State-established designated uses and applicable water quality standards included in the TMDL apply to that portion of the Upper Granite Creek Watershed that falls under the jurisdiction of the state of Arizona. Clarify that Arizona water quality standards are not applicable to Tribal waters.

Response #2: ADEQ has clarified the text in Section III.

**Specific Comment #3:**

Beneficial uses for Granite Creek and all its tributaries included in the Upper Granite Creek TMDL boundary should be included in Table 1 of the TMDL and/or *Section 3, Water Quality Standards and MOS*. We suggest listing all waterbodies included in the TMDL which are tributaries to Granite Creek and Watson Lake by name (Slaughterhouse Gulch, Manzanita, Miller, Butte and Aspen Creeks, etc.) and their applicable designated uses.

Response #3: This information has been added to Table 1.

**Specific Comment #4:**

Problem Identification, Section 4

In several places throughout the TMDL and in Appendix A, *E. coli* concentrations above the standard are noted. However, the magnitude of these exceedances are not described. The TMDL should include an assessment determination for each waterbody segment included in the TMDL.

The assessment should describe the number of exceedances of the *E. coli* water quality standard for each waterbody segment analyzed (Upper and Lower Granite Creek, Upper and Lower Miller Creek, Upper and Lower Aspen Creek, Upper and Lower Butte Creek, Manzanita Creek, Government Creek, Slaughterhouse Gulch, etc.). It would be helpful if the assessment determination explicitly provided the average concentrations of *E. coli* found in recent data, rather than just stating it meets or does not meet the standard.

Response #4: Sample results in excess of the WQS can be found in Appendix A of the TMDL report up through 2013. The 2012/14 305(b) Assessment Report contains the decision criteria and number of exceedances based on those assessment criteria. In addition, Figure 6 in Section VII of the TMDL specifies the percent reductions needed by sub-watershed.

**Specific Comment #5:**

## Source Analysis

There is no source analysis section included in the TMDL. The list of point and non-point sources and their magnitude, and some analysis of the impact from each should be described, (i.e. which are the greatest contributors). At a minimum, the TMDL should also reference and summarize the relevant analysis in the Watershed Implementation Plan (WIP). Any relevant source analysis conclusions drawn from ADEQ's "Draft Granite Creek Modeling Report: In support of the Granite Creek *E. coli* TMDL, Verde Watershed, Yavapai County, Arizona," should also be included.

Response #5: Section V is now "Source Determination" and includes the WIP analysis. Relevant source analysis conclusions from the Modeling Report remain in Section VI.

**Specific Comment #6:**TMDL for *E. coli*, Section 7

In Table 4 on page 12, the TMDL should indicate whether the City of Prescott and Yavapai County are MS4s or another type of permittee.

Response #6: Table 4 is now Table 5 and the type of permittee has been indicated.

**Specific Comment #7:**

Page 12 of the TMDL provides concentration-based WLAs depending on whether the discharge is to a creek with a FBC or PBC designated use. The TMDL should clarify whether a discharge to a tributary of one of these creeks is also subject to the WLAs. Applicable concentration-based WLAs should be included in Table 4 in addition to the mass-based allocations provided.

Response #7: The text on page 12 of the TMDL has been revised (and is now on page 19) to remove reference to the PBC designated use *E. coli* standard. As an intermittent system, Granite Creek and its tributaries are held to the same perennial *E. coli* standards, SSM of 235 cfu/100 ml and Geometric Mean of 136 cfu/100 ml. The WLA of 235 cfu/100 ml applies to Granite Creek and to all of its tributaries. Table 4 is now Table 5; the concentration-based WLA has been added to Table 5 which is now on page 19.

**Specific Comment #8:**

The TMDL should disaggregate the WLAs for point source dischargers. The proposed TMDL includes combined WLAs for the ADOT MS4 and reserve WLAs at each gauging station. This collective WLA will be difficult to implement in separate permits. We strongly encourage disaggregating allocations, especially for individual permittees.

Response #8: It is not possible at this time to completely disaggregate the mass based WLAs due to a lack of discharge monitoring data. Table 5 contains mass based WLAs based upon watershed area. The TMDL is applying a concentration-based WLA to each permittee equal to 235 cfu/100 ml.

**Specific Comment #9:**

It is unclear whether or not the combined WLA in Table 4 includes MSGP facilities. If so it should state this and if not the TMDL should clearly state what the WLA for MSGP facilities is and include this information in Table 4.

Response #9: Table 4 is now Table 5 and provides mass-based WLAs to the three MS4 permittees. MSGP facilities and CGPs are included in the Reserved WLA. However, the concentration-based WLA applies to all general and individual permits.

**Specific Comment #10:**

The TMDL should provide a basis for the 50/50 split of the load allocation between point and nonpoint sources described on page 13.

Response #10: The urbanized area accounts for 14 percent of the watershed but approximately 50 percent of the TN and TP load (Tetra Tech, 2012). Mass based load targets are divided 50:50 for point source and nonpoint source inputs based on watershed area. This statement has been added to what is now Section VIII-5.

**Specific Comment #11:**



On page 13, the TMDL states that “updated will be incorporated into future Stormwater Management Plan (SWMP) and Stormwater Pollution Prevention Plan (SWPPP) reviews and requirements based on new data. First, it should state “*additional WLAs*” since the TMDL also establishes a concentration-based WLA. Also, it is not clear whether this new information would result in revisions to the existing TMDL, or how “additional WLAs” could impact permittee compliance with already established permit limits based on the existing WLA.

Response #11: The sentence referring to “updated WLAs” has been removed and clarifying language added to Section VIII-6.

**Specific Comment #12:**

Also on page 13, the TMDL recommends collaboration between point and nonpoint sources. The TMDL should describe the expectations for the collaboration.

Response #12: ADEQ expects that collaboration between point and nonpoint source entities in development of strategies to achieve the TMDL occur through the Watershed Improvement Council (added to Section IX).

**Specific Comment #13:**

It is not clear that all point sources in the watershed are being accounted for in the TMDL, as only stormwater point sources are listed. Are there any wastewater point sources in the watershed? If so, WLAs should be included for those point sources.

Response #13: There are no wastewater sources permitted to discharge within the Upper Granite Creek watershed. Any future permitted point source would be assigned a WQBEL equal to 235 cfu/100ml as discussed in Section VIII.

**Specific Comment #14:**

The TMDL should specify the locations where the WLAs apply. There appear to be both a concentration-based WLA and a mass-based cfu/day WLA, which is set at the gauging station. It is not clear where the concentration-based WLA applies. The TMDL leaves the point of compliance for each discharger to be determined within the SWMP or SWPPP. The permittees included in the TMDL would likely have multiple discharge points and therefore, determining representative monitoring and appropriate points of compliance is important to consider in the TMDL in order to ensure implementation of the TMDL leads to the expected water quality improvement. The TMDL should clearly describe whether or not the WLAs apply at the end of the pipe or conveyance, and how WLAs covering multiple discharge points should be applied or measured.

Response #14: Representative discharge outfall locations have not been determined at this time. However, the WLA applies to discharges that occur in response to precipitation events and is applicable for each separate discharge that may issue from the permitted entity or site. The exception is for MS4 permits where the WLA is expressed as a system-wide requirement. Permittees can demonstrate compliance with the WLA by either direct sampling of outfall discharges or demonstrate that best management practices quantitatively reduce the discharge of pollutants to a level that meets the WQBEL. This language has been added to Section VIII.

**Specific Comment #15:**

The TMDL should describe how the WLA should be translated into water quality-based effluent limits (WQBELs) for point source dischargers. There are essentially two ways a WLA can be incorporated into a permit: (1) include numeric WQBELs or; (2) include best management practices that are demonstrated by modeling to quantitatively reduce the discharge of pollutants to a level that meets the WLA. The TMDL should clearly establish how the WLA should be incorporated into permit limits and identify appropriate averaging periods and periods of excursion. This should also be addressed for the filers under the Construction General permit, which is currently described on page 13 of the TMDL.

Response #15: All potential point source discharges are expected to meet the single sample maximum (SSM) E. coli standard of 235 cfu/100 ml. Permittees can demonstrate compliance with the WLA by either direct sampling of outfall discharges or demonstrate that best management practices quantitatively reduce the discharge of pollutants to a level that meets the WQBEL. This language has been added to Section VIII.

**Specific Comment #16:**

On page 12 the proposed TMDL states that the WLA can be superseded by specific general permit conditions issued by ADEQ and that these additional conditions would depend on site-specific factors, such as proximity to impaired waters or reasonable potential to exceed water quality standards. This statement provides too much flexibility, which may result in inadequate implementation of the TMDL.

Response #16: ADEQ agrees and has removed the “superseded by” language from the revised Section VIII language.

**Specific Comment #17:**

TMDL Implementation, Section 8

We noticed that an implementation section was not included in this TMDL. Implementation is a critical next-step to realize improvements in water quality in the Upper Granite Creek watershed. EPA supports ADEQ's plan to update the companion WIP described on page 16 and Table 6 of the TMDL. We understand that the process and analysis will provide greater detail on how nonpoint source pollution will be reduced. We welcome opportunities to collaborate with you on implementation, such as facilitating improved water quality practices on federal lands contributing to water quality exceedances and helping to complete more specific watershed plans to inform focused cost-effective implementation towards meeting load reductions.

Response #17: TMDL implementation milestones have been included in Section IX-2 of the TMDL document, with additional detail and general timelines to be incorporated in the revised WIP.

**Specific Comment #18:****Appendices and Supporting Technical Documents**

Several documents are referenced frequently throughout the TMDL and serve as supporting technical documents. In addition to Appendix A, the following documents should be included as Appendices to the TMDL: a) ADEQ. 2014. “Draft Granite Creek Modeling Report: In support of the Granite Creek *E. coli* TMDL, Verde Watershed, Yavapai County, Arizona”, and b) “Prescott Creeks and the Granite Creek Improvement Council. 2012. “Improvement Plan for the Upper Granite Creek Watershed, Arizona, Version 2.1.”

Response #18: The supporting documents are too large to be added as appendices to the TMDL. These supporting documents are available for review and download from the ADEQ web site at: [http://lists.azdeq.gov/environ/water/assessment/tmdl\\_status-vr.html](http://lists.azdeq.gov/environ/water/assessment/tmdl_status-vr.html) and in the Reference section of the TMDL.

**Arizona Department of Transportation****Specific Comment #1:**

Local to the Upper Granite Creek Watershed ADEQ has provided information that indicates sources of *E. coli* include humans, wildlife, and domestic animals, as well as sanitary sewer overflows and cross connections. These sources and situations are not compatible with, or common to the ADOT MS4. While the mathematics that are the basis for load, or assimilation of *E. coli* in the watershed/system, appear to be sound, the assignment of waste load or load allocations to entities with individual or general AZPDES permits places emphasis on the type of permit rather than a known source of pollution occurring in that MS4 or even the amount of surface area contributed. For these reasons it is recommended that ADEQ consider the following (additional comments) and revise the draft TMDL accordingly.

Response #1: *E. coli* can be carried by sediment or water that reaches or crosses ADOT's jurisdiction. Although the activities performed by ADOT would not normally generate *E. coli*, BMPs may be needed to control run on and runoff.

**Specific Comment #2:**

Table 5 incorrectly states ADOT has an MS4 permit issued in 2000; ADOT's permit at the time of this draft TMDL is an individual statewide with MS4, industrial, and construction that was issued in 2008.

Response #2: Table 5 is now Table 6; the date has been corrected and the permit type has been clarified.

**Specific Comment #3:**

ADOT would prefer to have control measure specific requirements for the MS4 Outfalls only and would plan to comply with appropriate numeric limits for specific projects or activities subject to the construction or industrial general permits.

Response #3: Permittees can demonstrate compliance with the WLA by either direct sampling of outfall discharges or demonstrate that best management practices quantitatively reduce the discharge of pollutants to a level that meets the WQBEL. Due to a lack of monitoring data by the MS4 jurisdictions within the Granite Creek watershed specific control measures required to improve water quality are not currently known. The WLA and associated WQBEL are intended to be the benchmark against which BMP or control measure effectiveness is measured. If the WLA is being met no additional control measures are needed. However, exceedances of the WLA should result in the reevaluation of control measures as described in Section 7.1 of the 2008 ADOT MS4 permit.

**Specific Comment #4:**

It is unclear from the draft TMDL document whether the ADOT MS4 is a direct contributor of *E. coli* or whether the system is pass-through transport of *E. coli* originating from other land uses. Page 15 of the draft TMDL document notes that potential sources of pollution include degraded municipal sewer infrastructure, septic systems, water reuse, livestock, and pets; these are not typical activities associated with ADOT.

Response #4: See Response #1 above. ADEQ agrees that MS4 ADOT activities in and of themselves are unlikely to generate *E. coli* and any *E. coli* contained within ADOT MS4 discharges likely originated from other surrounding land uses. However, ADOT's permit requires that discharges not degrade the receiving water and specifically requires an illicit discharge detection and elimination program. A sentence has been added to Section VIII, page 20, clarifying ADOT as a conveyance system.

**Specific Comment #5:**

Also on page 15 of the draft TMDL document lists factors that could be associated with a MS4 such as ADOT, but more realistically a traditional MS4 such as a city. The draft TMDL document does not describe the percentage of impervious surfaces within the total area that are comprised of ADOT property. In acknowledgement of that described in this and the above bullet, and of ADOT's post-construction control measure requirements in our Phase I AZPDES Individual Permit, ADOT requests that any limits are BMP-based.

Response #5: ADOT is correct that ADEQ was not able to determine the exact area of the watershed comprised of ADOT property due to a lack of accurate mapping information. However, that lack of information does not negate the need for a numeric target against which BMP effectiveness can be evaluated.

**Specific Comment #6:**

Because the ADOT MS4 may pick up background *E. coli* from soils or carry effluent-laden run-on from adjacent communities, it only makes sense for ADOT to have a narrative, BMP-based limit rather than a numeric assignment. The MS4 section of ADOT's permit contains illicit discharge detection and elimination conditions that require ADOT to stop any non-storm-water flows unless they are currently allowed by an AZPDES permit.

Response #6: Exceedances that are caused solely by natural conditions are not considered a violation of the applicable water quality standard or WLA. Illicit discharge detection and elimination along with coordination with other stakeholders within the watershed is necessary to improve water quality. The numeric WLA provides a benchmark to which BMP effectiveness can be measured.

**Specific Comment #7:**

Research, pilot-studies, outreach, and other BMP-related activities should precede the implementation of a numeric limit. When assessing the approach, ADEQ must consider the variable nature of stormwater and the time between qualifying rain events, availability of reliable and applicable field data, aerial deposition of *E. coli*-laden dust and sediment, and regional wildlife movements and population dynamics.

Response #7: ADEQ agrees that the activities mentioned are imperative to improving water quality. However, these actions are already required by ADOT's 2008 permit, see Section 3.2 SSWMP Requirements.

**Specific Comment #8:**

ADOT understands that as a non-point source, potentially polluted stormwater may intersect or be present within the MS4 as a result of natural background, however we do not feel that we are a substantive contributor. Background sources may include aerial deposition of dust containing pollutants, wildlife population dynamics, and natural and modified drainage patterns due to regional development and re-development. Therefore, applying a more easily implementable approach, such as that required of Washington DOT, including identifying illicit sources of bacteria, or treating for bacteria in excess of bacteria concentration, or working with individual property owners, are more appropriate than assigning a waste load allocation that is impracticable to meet. In reality, collecting and processing analytical results from the representative sites within hold times is challenging because laboratory testing is not generally available.

Response #8: ADOT's contribution from its MS4 storm sewer system has not been accurately quantified due to a lack of discharge monitoring data. As previously stated ADOT activities are unlikely to generate *E. coli* but the ADOTs storm sewer system may act as a conveyance from other sources in the watershed. Identification of illicit discharges, BMP implementation and outreach are requirements of ADOTs 2008 permit. ADEQ does not agree that the holding time for *E.coli* is prohibitive; ADEQ routinely samples and analyzes water column samples for *E. coli* across the state even in remote regions using commercially available analytical equipment.

**Prescott Creeks****Specific Comment #1:**

ABBREVIATIONS – As we worked through the document, several times we referred to the abbreviations list to find that it was not all-inclusive of abbreviations in the document. Update of the list in the final will be helpful.

Response #1: ADEQ has updated the acronym list.

**Specific Comment #2:**

EXECUTIVE SUMMARY – The executive summary is concise and frames the topic well. It also includes the first map as Figure ES-1. We found all of the maps to be very helpful in supporting the verbiage of the report, yet found ourselves wishing that they were presented in a larger format. Ideally a full page presentation would help the reader see more detail. Similarly, inclusion of some main roadways or other features in the maps might help the reader orient to the landscape. These comments can be applied to all maps presented in the document.

Response #2: All maps have been enlarged to marginal extent and major roadways added to Figure 7. The other maps are either too congested to add roads or remain as they were based on the intended illustration.

**Specific Comment #3:**

Table ES-2 is well laid out and easily understood. Local discussion has included some speculation about proper function of the Upper USGS Gauge #09502960. While we do not in any way mean to suggest that gauge data is incorrect, we want to call this to ADEQ's attention so that coordination with the USGS can occur. Basis of allocations on gauge data in the future will underscore the importance of proper function and continued support of these sites by the USGS.

Response #3: ADEQ acknowledges the concern regarding proper maintenance and function of USGS gauges. No provisional data were used in the loading analysis and the flow duration curves were based on the period of record.

**Specific Comment #4:**

WATER QUALITY STANDARDS AND MOS – The last sentence of this section states “Recreational use along Granite Creek and its tributaries includes walking, hiking, biking, wading and camping. There is a golf course located between two of the tributaries and several parks.” Prescott Creeks believes this is an understatement of the importance of recreation to the creek system flowing throughout the Prescott area. There are numerous official parks (Granite Creek Park, West Granite Creek Park, Manzanita/Mountain Club Park, Strickin Park) as well as the downtown Greenways Trail (which extends from Leroux St on the upstream end to Granite Creek Park and then continues up Miller Creek to Miller Valley Rd). There are many other areas not formally designated as parks which are used recreationally by the community. Prescott Creeks believes a more representative listing of parks, both formal and informal, is important to present in this document. One of its audiences is the public – many of whom use these parks in a variety of capacities.



Response #4: ADEQ has added a list of parks and trails from the City of Prescott web site to Section V-2 in the document. This section of the TMDL emphasizes the importance of appropriate use of BMPs within/on all recreational amenities.

**Specific Comment #5:**

PROBLEM IDENTIFICATION – “Prescott Creeks Preservation Association” is incorrectly referred to with the acronym PCA. The full legal name of the organization is Prescott Creeks Preservation Association, and we use “Prescott Creeks” as an informal, shortened DBA (doing-business-as) name. The mission of Prescott Creeks is to achieve healthy watersheds and clean waters in central Arizona for the benefit of people and wildlife through protection, restoration, education and advocacy. We appreciate the coordination and collaboration on monitoring and water quality improvement projects leading up to the TMDL, as well as the formal recognition in the document.

Response #5: The requested correction has been made.

**Specific Comment #6:**

TMDL TARGET DEVELOPMENT – Figure 3. Granite Creek Basin Cumulative Loads per Square Mile map includes several subwatersheds with no data. Each of the subwatersheds with no data also lacks a label for the watershed name. Reviewers can find the subwatershed names listed on one or more maps in the Modelling Report, but it would be helpful to have all subwatersheds labeled on the maps where they appear. This comment can also apply to Figure 5. Cumulative Percent Reductions by Subwatershed.

Response #6: ADEQ has rearranged the order of figures so that what was Figure 4 is now Figure 3 (Anthropogenic Impact Indices) and introduces the subwatersheds with all 24 of them labeled. Figure 3 can be used to note which subwatersheds were not represented in sampling or load comparisons.

**Sierra Club**

**Comments:**

We have a significant interest in protecting and restoring the water quality in Arizona’s rivers, lakes, and streams. It is within that context that we are submitting these comments. We are generally supportive of the contents of the Draft TMDL, and specifically support strategies for reducing exceedences such as green infrastructure, outreach and education focusing on public involvement, and pursuing funding through innovative mechanisms like a watershed protection fee. The draft document mentions rewriting the 2012 Watershed Improvement Plan (WIP). Any future drafts of the WIP should retain these strategies, as well as a plan for addressing Prescott’s aging and degraded municipal sewer infrastructure. Success of other priority projects listed in the draft may be undercut if this significant *E. coli* source with likelihood to become an ever-increasing contributor to exceedences is not addressed.

Both the work toward assessing current conditions and cleaning up Granite Creek accomplished to date and the constructive strategies *outlined* in this Draft TMDL demonstrate what can be accomplished through collaborative relationships between ADEQ and local stakeholder groups. Thank you for your efforts to protect Granite Creek and other watersheds in Arizona.

Response: The revised WIP will continue to cite the need for addressing repairs and improvements to Prescott’s municipal sewer infrastructure, however, specific plans for such is not within the purview of the WIP, a non-point source plan for improvements and TMDL implementation.

**City of Prescott**

**General Comments:**

The City supports seeking water quality improvements for the benefit of the local community and its visitors. The current conditions and the remedies outlined in the TMDL require the strong participation of those that live within or visit the watershed. The disclosure of the scientific process (including data gaps) is a critical element with any regulatory action, such as this, due to the large financial and personal investments by area residents. The City’s history shows that it adheres to and meets state and federal regulations. At the same time, the City has found great challenges in doing so, as the regulations do not necessarily correspond to the local topographic, climate, and governmental conditions existing within this specific watershed.

Response: ADEQ acknowledges the challenges inherent in meeting the proposed TMDL WLAs, but the *E. coli* standard applies to all water bodies regardless of “topography, climate or governmental conditions”.



**Specific Comment #1:**

Statement No. 1 - Coordination of schedules for multiple regulatory actions

The draft TMDL was void of any information regarding overall implementation schedule and specific milestones. As you are aware, this is the second TMDL that has been released for the area that has a direct impact on the citizens both within and outside of the City limits. The Watson Lake TMDL is currently awaiting its second public review comment period while the initial public comment period for the E. coli TDML is underway. The City understands that both TMDLs will have linkage with enforcement measures to the Small MS4 General Permit yet, to-date, the City (nor any other stormwater permittees in Arizona) have been given definitive information for how the MS4 permit will be integrated and how the TMDL requirements, as noted in the TMDL documents, will be enforced throughout the permit.

To further complicate the schedules for TMDL implementation, ADEQ is in the process of drafting a new Small MS4 General Permit which is expected to be released in July 2015. While the TMDLs are not yet approved, nor the MS4 permit issued, the ADEQ Stormwater Permitting Unit is currently requiring the City to develop an impaired waters monitoring plan (see attached). The development of such a plan will be highly complex and resource intensive, requiring additional data compilation and analysis before sampling schedules, equipment procurement and lab analysis costs can be evaluated. As you are aware, analytical monitoring would be performed to meet MS4 permit and Granite Creek Watershed and Watson Lake TMDL requirements, therefore the plan must consider all these components. The City is now required by ADEQ to expend scarce resources in advance of final MS4 permit and TMDL documents which will outline the City's implementation responsibilities and milestones.

The City understands that the final TMDL will include a detailed implementation schedule. We ask ADEQ to consider the fact that the City will be burdened with the concurrent implementation of two different TMDLs for separate water bodies and pollutants, while anticipating major modifications to the City's Stormwater Management Program for compliance with the new MS4 permit. These are separate but related regulatory actions for which solutions are likely going to be costly to define and implement. A response is sought from ADEQ on the matter of coordinating the requirements and schedules of separate ADEQ units.

Response #1: The final TMDL includes general milestones only. Specific milestones will be developed under the new MS4 general permit or other general permit updates. A TMDL sets a budget for discharges, monitoring required by the MS4, and actions taken in accordance with the Watershed Improvement Plan will provide the implementation. Please refer to Table 7 in Section IX for a list of milestones toward implementation.

**Specific Comment #2:**

The City also seeks more information from ADEQ on the status of Willow Lake. ADEQ 's Draft 2012/14 Status of Water Quality in Arizona 305(b) Assessment Report added Willow Lake to the 303(d) list of impaired waters for Ammonia. The City understands that this impairment listing will require an additional TMDL analysis and implementation plan for Willow Lake. Please provide more information on the schedule for developing a TMDL for Willow Lake and how this will be integrated into the implementation of the Watson Lake and Granite Creek Watershed TMDLs and MS4 permit compliance.

Response #2: The listing of Willow Creek Reservoir for ammonia may not require a TMDL, per se. It is not clear that the ammonia issue in Willow Creek Reservoir is associated with external ammonia loading. It seems much more likely that high ammonia values are the result of excessive growth and die-off of aquatic vegetation. ADEQ would like to work with stakeholders in the Willow Creek watershed to explore remedies for this problem based on in-lake management alternatives, while understanding that Granite Creek and Watson Lake are the immediate focus.

**Specific Comment #3:**

Statement No. 2 - The rate of occurrence for E. coli exceedances does not correspond to the degree of monitoring and remedy recommended in the TMDL.

The report outlines that a mass reduction of E. coli is needed, in the range of 93% to 95% over time, to achieve the targeted TMDLs. The City questions whether the steep E.coli reductions are warranted given that exceedances are periodic and occur during high flow events, yet these high flows are a natural result of local topography and precipitation patterns.

The microbial source tracking (MST) analysis conducted by the University of Arizona, as presented in the Watershed



Improvement Plan (WIP 2.0), showed that “91% of the samples collected within the project area were positive for the human genetic marker.” This would point to possible sewer main over flows during storm events and possible issues related to private, failing, septic systems, or transitory human occupation along the creeks. For the City, an operator of a municipal sewer system, the identification of historic infrastructure, or infrastructure that is beyond its operational lifespan, is an on-going process. The City monitors and places appropriate improvements into the Capital Improvement Program. If the TMDL in this stage cannot identify where to target these mitigations, it poses a challenge for the City. Once again, the City supports watershed health and the proper maintenance of City systems, but there are significant source identification and implementation issues.

Response #3: Implementing the permit-required monitoring will help the City identify specific areas of concern where mitigation activities may be needed. The City is not permitted to discharge untreated or treated wastewater to the creeks or to the lakes. Historically, the areas of concern for the failure of infrastructure (pipe breaks or manhole overflows) are known; ADEQ assumes that these issues are prioritized and mitigated as soon as possible, a permit condition. The reduction goal of 90+ percent is warranted and the MST results support the need of the MS4 to identify and eliminate illicit discharges. Assessment of infrastructure needs or improvements is within the purview of the City and should be ongoing.

**Specific Comment #4:**

Statement No. 3 - Discrepancies between hydrologic classification and designated uses

The Draft Upper Granite Creek Watershed *E. coli* TMDL document states that “Granite Creek is considered intermittent; hence, it carries the Full Body Contact (FBC) designated use with a SSM of 235 cfu/100 ml.” However, the Granite Creek *E. coli* TMDL Modeling Report states that “Upper Granite Creek is considered perennial, although it may not truly conform to the designation”. This discrepancy raises concerns about how hydrological classifications are determined and how those classifications influence a designated use and subsequent water quality standard. Furthermore, there is no discussion of whether these classifications are being applied appropriately to the conditions in the Upper Granite Creek Watershed. The FBC water quality standard for *E. coli* is applied whether or not swimming is encouraged, or even practical, in local water bodies. The City does not agree with the FBC classification for Watson Lake (the irrigation reservoirs were never intended for, nor posted to encourage, swimming); in this case identifying the creeks as FBC where there are some reaches that are ephemeral, intermittent or perennial needs to be fully addressed by ADEQ.

Response #4: An intermittent water body carries the perennial Arizona Surface Water Quality Standards (WQS), as no independent standards have been developed for intermittent waters. “Intermittent” is defined in the WQS as: a stream or reach that flows continuously only at certain times of the year, as when it receives water from a spring or from another surface source, such as melting snow”. The AZ WQS (A.A.C. R18-Chapter 11) can be found on the Secretary of State’s web page: [http://apps.azsos.gov/public\\_services/Title\\_18/18-11.pdf](http://apps.azsos.gov/public_services/Title_18/18-11.pdf). The shared standards for perennial and intermittent streams apply year round, as they are the most conservative, protective standards. The default perennial standard for *E. coli* is a single sample maximum of 235 cfu/100 ml, applied to protect for full body contact (FBC) in all surface waters that share the perennial WQS.

**Specific Comment #5:**

Statement No. 4 - Lack of funding and tools to support multi-jurisdictional efforts

The City must make it clear to ADEQ that funding these long-term and science intensive studies, along with recommended remedies, will require a dedicated funding source. Funds generated through City development impact fees are limited by state legislation and are intended to address infrastructure demands placed on the system by development. Water/sewer rates increases may be able to provide funding to mitigate existing conditions, as long as the increases are “just and reasonable.” Rate/fee increases require considerable community education efforts in order to garner the support of the citizens of Prescott and must be approved by Prescott City Council. The City has recently established an Aquifer Protection Fee which is termed as such to provide an understanding that its use is intended to be consistent with ADEQ language regarding aquifer protection, both groundwater and surface water (<http://www.azdeq.gov/environ/water/permits/index.html>). At this time, the fees have not accrued to a level which can support the TMDL-recommended mitigation or further study. The City (its residents and utility customers) is showing its commitment to watershed health, yet a significant funding gap remains.



The City of Prescott is just one of many stakeholders (Federal, State, County, Tribal, City) identified in the TMDLs. The City is not aware of any state funding mechanisms or other regulatory tools that would assist in engaging in a complicated, multi-jurisdictional effort to improve water quality. The City asks that ADEQ address the issue of unfunded mandates that will require a coordinated, multi-stakeholder effort to meet regulatory requirements.

Response #5: ADEQ is aware of economic consequences of funding challenges to meet the Watson Lake nutrient TMDL WLAs for TN and TP and the Granite Creek *E. coli* TMDL WLA. Funding is a consequence of the MS4 permit; the TMDL sets the target. The WIC/WIP process will engage all stakeholders and should explore other funding sources.

**Specific Comment #6:**

Statement No. 5 - Non-point source (NPS) contribution of private properties and the importance of education and outreach

The City's assigned Wasteload Allocation (WLA) presented in the draft TMDL accurately reflects that the City is the permitted entity with the largest jurisdiction in the watershed. While the City recognizes its role in the watershed and accepts responsibility to meet these WLAs, the non-point source (NPS) contribution of private properties in the watershed must also be acknowledged. The WIP states that there are approximately 1,800 private properties that border the creeks and washes in the watershed. These properties may have a direct impact on water quality and the City has limited authority to regulate activities on private properties. Therefore, additional education and outreach efforts will be required to raise awareness about NPS water quality issues in the watershed and encourage behaviors that protect and improve water quality. The City has long recognized that education and outreach efforts are a critical component in the management of the City's water resources. The City was an active participant in education and outreach efforts of the WIC/WIP; supported (and contributed funding to) the development of the Creek Care Guide; and continues to distribute the Creek Care Guide and other watershed education through the City Water Smart and Watershed Smart programs.

Education and outreach efforts are known to be challenging because of the sizeable investment of time and resources required to implement them and success is difficult to measure or determine. Regardless, the City is aware that public support will be required for City expenditures on water quality improvements and that individual behavior change will be a linchpin in the success of the City's efforts.

Response#6: ADEQ acknowledges that non-point contributions from private properties in the watershed are also important and is invested in continued outreach and education efforts. ADEQ reconvened the WIC in February of 2015 to build on previous work by focusing additional sampling efforts on Miller Creek and North Miller Creek. Chemistry results as well as a new field survey will be incorporated in an updated WIP addendum in the fall of 2015. This update will include further prioritization of water quality improvement projects and BMPs.

**Specific Comment on Text #1:**

Executive Summary - Pg. 1, Second sentence incorrectly states that Granite Creek was listed on 303(d) list for *E. coli* in 2006. It was listed in 2004 for DO by EPA and 2010 for *E. coli*.

Response Text #1: This was an error and ADEQ has corrected the text.

**Specific Comment on Text#2:**

Executive Summary - Pg. 1, Second paragraph, please quantify *periodically exceeds*. What constitutes an occasional exceedance that remains acceptable? Who defines what percentage of exceedance is too much?

Response Text#2: Assessment of impairment for *E. coli* only requires more than one exceedance of the 235 cfu/100 ml SSM water quality standard in any consecutive three-year period, per A.A.C. Title 18, Chapter 11, Section 106 D (2). Appendix A of the TMDL report shows the frequency of values above 235 cfu/100 ml by sample location. ADEQ has removed "periodically exceeds" from the Executive Summary to avoid confusion between sample results and formal assessment methodology.

**Specific Comment on Text#3:**

Pg 2 - Tribal trust responsibilities; more information on this topic is needed.

Response Text #3: ADEQ must consider federal Tribal Trust responsibilities in the Watson Lake Watershed since TMDLs are subject to the approval of the U.S. Environmental Protection Agency (EPA). ADEQ will assist USEPA in fulfilling tribal trust responsibilities by adopting a TMDL that restores and maintains pollutant levels that are protective of fish and other beneficial uses related to the Yavapai-Prescott Indian Tribe (YPIT) to the degree that natural conditions allow. YPIT was invited to both the original Watershed Improvement Council and the reconvened Council in February 2015. EPA and ADEQ will explore funding opportunities for YPIT projects that are evaluated to contribute to the mitigation of *E. coli* impairment.

**Specific Comment on Text#4:**

TMDL does not acknowledge plans to overturn the Granite Creek DO listing by ADEQ. Please clarify if the DO listing is still warranted and why?

Response Text#4: ADEQ does intend to submit a delist proposal, a report summarizing the DO data collected since 2004 and the rationale for delisting based on the exceedance rate interpreted through the associated hydrologic conditions, as well as the interpretation of the biocriteria results. A draft report, scheduled for December 2015, will be reviewed internally at ADEQ as well as externally by EPA. Ultimate delisting is dependent on approval by EPA.

**Specific Comment on Text#5:**

Pg 12 - Table 4 Footnote; what is the date of the data set for City square miles, and is this percentage an accurate number?

Response Text#5: The percentages come from the 2012 WIP, so the understanding was that the numbers date from 2010 or 2011. The WIP is being updated in the next few months, so we will make sure we have the most up to date data.

**Specific Comment on Text#6:**

Pg 12 - "ADEQ recognizes certain sectors of activities and facilities covered under the general permits are not reasonably expected to add *E. coli* loading." What are these sectors? Are these facilities still required to monitor per the MSGP where there is an established TMDL?

Response Text#6: Some MSGP facilities may not typically be a source of *E. coli*; if there is a question, the ADEQ Stormwater Unit would assess the need for monitoring on a case by case basis. For example, if a facility has porta-john service outside, then that could be a source, such as auto salvage yards. A facility that provides porta-john service and storage would also be a logical concern, but not a regulated activity under SIC code 7539. However, again, if there is determined to be a concern, these activities could be regulated. Airports may also be required to monitor if they are transferring waste from planes to trucks for disposal. The ADEQ Stormwater Unit will determine reasonable potential (RP) under MSGP or CGP and determine monitoring accordingly. If there is no RP, a permittee would receive a WLA = 0.

**Specific Comment on Text#7:**

Pg 13 - The acronym for Stormwater Pollution Prevention Plan is SWPPP, not SWMPP.

Response Text#7: The text has been corrected.

**Specific Comment on Text#8:**

Pg 13 - Provide information on how ADEQ plans to reach out to CGP permittees regarding monitoring requirements. Due to City involvement in this permit program, insofar as requiring proof of permit coverage in order to secure local permits, permittees will undoubtedly turn to the City with questions on complying with this requirement. Please provide information on what ADEQ sees the City's role.

Response Text#8: ADEQ has prepared a CGP SWPPP template that will assist construction site operators with permit compliance and monitoring requirements. Operators are not required to use the template, but the department encourages it. The City's role is not to enforce on ADEQ's Stormwater Construction General Permit. Rather, the City must comply with its permit by ensuring construction site operators are in compliance with local codes/ordinances and by ensuring there are no illicit discharges into the City's storm sewer system. Additionally, the City is encouraged to leverage information and resources available on the ADEQ website and collaborate with other MS4s on outreach efforts.



**Specific Comment on Text#9:**

Pg 14 - Table 5. City of Prescott Fleet Services has filed a NOT and is now being managed under the MS4 permit. Please remove from the table. Be advised that AZMSG72837/Synchronous Aerospace facility has closed and may also need to be removed from this list (see attached).

Response Text #9: Table 5 is now Table 6 and has been updated to remove COP Fleet Services as well as Synchronous Aerospace.

**Specific Comment on Text#10:**

Pg 15 - WIP update, provide more info on how the WIP update will be staffed and the leadership roles.

Response Text#10: Jake Breedlove, ADEQ Grants and Watershed Coordinator, has been the lead in reconvening the WIC in February 2015, which has since met once a month. ADEQ committed sampling resources to further explore issues within the Miller Creek subwatershed that were identified in the 2012 WIP. Fourteen sites were sampled between February 2015 and July 2015, 11 on Miller Creek and 3 on North Miller Creek. As part of this effort, ADEQ staff (Susan Fitch and Jade Dickens) trained volunteers in sample collection and Amanda Richardson (City of Prescott) trained volunteers on field survey methods. A field survey was conducted on North Miller in May and June 2015. Sample and field survey results are being evaluated by the WIC and recommendations will be made in an addendum to the WIP that focuses on the Miller subwatershed. Under the Watershed Protection Unit Manager, Krista Osterberg, Susan Fitch is assisting Jake Breedlove in writing the addendum and adding TMDL updates to the WIP. The ADEQ expectation is that the City will continue to work with other stakeholders on the WIC to support both nonpoint and permitted watershed improvements. Susan Fitch and Jade Dickens will conduct BMP effectiveness monitoring for existing projects between September 2015 and July 2016.

**Specific Comment on Text#11:**

The draft TMDL was void of any information regarding overall implementation schedule and specific milestones. The City understands that the final TMDL will include a detailed implementation schedule. We ask ADEQ to consider the fact that the City will be burdened with the concurrent implementation of two different TMDLs for separate water bodies and pollutants, for which solutions are likely going to be costly to define and implement. Therefore we ask that the implementation period be as long as it can reasonably be. The City is proposing an implementation period of 25 years.

Response Text#11: Table 6 is now Table 7 and provides a preliminary list of milestones that covers completion of the TMDL and implementation. The updated WIP will provide a platform for both point and NPS project ideas and prioritization to address nutrients and *E. coli* in the creeks. The implementation and effectiveness monitoring of BMPs is expected to be an ongoing effort and is based upon improving water quality rather than imposing a deadline for implementation to be completed. Implementation will be iterative in nature.

**Specific Comment on Text#12:**

Pg 15 - Third paragraph, *“The WIC recommends that GI be integrated with traditional grey infrastructure to the maximum extent possible within the watershed to effectively reduce stormwater quantity before it enters the already overburdened sewer system and discharges to the nearest water body.”* It should be noted that stormwater of any quantity is prohibited from entering the municipal sewer system per Prescott City Code (2- 1-38) which states, *“No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process water to any sanitary sewer. Stormwater and all other surface drainage shall be discharged to such sewers or drains as are specifically designated as such, or to a natural outlet approved by the City.”* It should also be noted that the municipal sewer system is not permitted to discharge *“to the nearest water body”*. Municipal sewage is treated to regulatory standards (i.e., Aquifer Protection Permit) before being beneficially reused or recharged to the aquifer.

Response Text#12: The citation from the WIP (by the WIC) is interpreted by ADEQ as a recommendation for retaining as much stormwater and grey water on-site as possible, to minimize these water sources from reaching the creeks for two reasons: 1) keep pollutants out of the creeks, and 2) lessen the possibility of promoting conditions that would lead to inflow and infiltration (I & I) problems in the sanitary sewer collection system. ADEQ acknowledges that the City is not permitted to discharge from the sewer collection system to the creeks, however, breaks in pipes and overflows from manholes have occurred. The text has been revised to make these points more clear.

**Granite Creek *E. coli* Modeling Report****Specific Comment on Text#13:**

Given the limited number of samples in the upper watersheds, what is the confidence level with the estimated background contribution (50.4 cfu/100 ml)?

Response Text#13: There is no statistical confidence level associated with the choice of the 90<sup>th</sup> percentile data value “Background” was derived from stormflow loads; the 50.4 cfu/100 ml was the concentration value at the 90<sup>th</sup> percentile load. This concentration was associated with the highest flow recorded in the upper watershed of 15 cfs, a rain on snow event on Upper Aspen Creek. There was only one of the nine stormflow samples in the upper watershed that was higher than 50.4 cfu/100 ml, and that was a value of 65 cfu/100 ml at Thumb Butte Park, but the flow and thus the load, were lower.

**Specific Comment on Text#14:**

Pg 3, *E. coli* occasionally exceeded - quantify occasionally here, is it the same as periodically?

Response Text#14: Yes. See response Text#2 addressing this question in the TMDL report.

**Specific Comment on Text#15:**

Pg 3, Verify Wirt et. al, 2004 reference is correct - this report was controversial locally and at the State level. In some cases, also at the Federal level.

Response Text#15: The purpose of the citation was to emphasize that surface flows below Watson Lake in Granite Creek do not, except in extreme wet year conditions, reach the Verde River. The exact nature of the groundwater-surface water interaction and the status of the groundwater aquifers is not the purview of this TMDL.

**Specific Comment on Text#16:**

Pg 3, Fourth paragraph - It is the City of Prescott, not town of Prescott

Response Text#16: The correction has been made.

**Specific Comment on Text#17:**

Pg 3, Fifth paragraph - reference Appendix A in text.

Response Text #17: The reference has been added.

**Specific Comment on Text#18:**

Pg 3, Sixth paragraph - Prescott Creek Preservation Association (Prescott Creeks).

Response Text#18: Text was corrected but the paragraph is now on page 4.

**Specific Comment on Text#19:**

Pg 5, First paragraph - was this mostly citizen science? Does a protocol list exist in the WIP? If so, this should be included to give the data set confidence.

Response Text#19: Data were collected by ADEQ staff, Prescott Creeks staff, and volunteers under oversight by Prescott Creeks. All sampling was conducted pursuant to an ADEQ approved sample and analysis plan (SAP). The SAP was referenced in the 2012 WIP.

**Specific Comment on Text#20:**

Pg 6, “the lack of data . . . does not alter the validity of the analysis on a watershed basis, nor does it hinder or qualify the overall conclusions of this report.” Why would the lack of data not alter the validity of the analysis?

Response Text#20: The modeling approach and associated results are valid for watersheds in which there were sufficient data. Missing data from four sub-watersheds out of 24 does not invalidate the approach or conclusions reached.

**Specific Comment on Text#21:**

Pg 8, “Granite Creek is considered a perennial water ...” It is either classified as stream type or not, not considered. Include a



reference here.

Response Text#21: Granite Creek is technically an “intermittent” water body hydrologically. However, this class of water body is “considered” by ADEQ and the Arizona Surface Water Quality Standards to fall under the umbrella of “perennial” water when applying standards (A.A.C. R 18-Chapter 11, Appendix B).

**Specific Comment on Text#22:**

Pg 10, Table 2 heading needs to be moved to the top.

Response Text#22: The author of the Modeling Report preferred to label tables below the table, which is acceptable for a technical support document.

**Specific Comment on Text#23:**

Pg 15, Percent Reductions, paragraph 3. Can you provide more information on what the exceptions were in the “few cases” where “site characteristics overrode the larger subwatershed's character”?

Response Text#23: The exceptions were storm conditions of heavy rains on snow resulting in larger flows at some locations relative to others, depending on the storm track, slope, and watershed area captured in those events.

**Specific Comment on Text#24:**

Pg 15, Third paragraph, what is meant by “Prescott Metro area”? Do you mean Prescott City limits or the Prescott Urbanized Area as defined by the 2012 census?

Response Text#24: “Metro area” was an umbrella term not really meant to represent either just the City limits or urbanized area defined by the 2012 census. The term was used as a surrogate for “Watson watershed” with regard to the degree of development.

**Specific Comments on Text #25/Appendices**

- a) Appendix B of the Modeling Report describes how flow was differentiated between baseflow and stormflow throughout a typical flow hydrograph. Was that determination made based on the flow records of just one of the USGS gauges or both of the gauges?
- b) Appendix A of the Modeling Report lists the project data and includes a flow assumed to be occurring at that location during the time that the sample was collected. How was that flow computed?
- c) Was [flow] it measured at each of the sampling site? And if so how?

Response Text #25a: Both gages were used to determine the distinction between baseflow and stormflow. #25b: Some flows were measured but many were estimated using the float and cross-sectional area method and checked against an algorithm developed by Peter Kroopnick (WIP, 2012) relating upper watershed flows to the upper USGS gauge. #25c: When flows were measured directly, a Marsh-McBirney velocity meter was used along with a tape, stadia rod, and correction factors for channel shape.

**Actions Recommended by the City of Prescott**

The TMDL document should remain a draft, to be used as a guiding document for permitted and non-permitted stakeholders, to develop an action plan.

ADEQ Response: ADEQ believes the TMDL analysis is valid and finds no reason for it to remain in draft. The TMDL will be finalized with a set of milestones for implementation. The WIP has been developed and is currently being updated and appended with a focused study of the Miller Creek subwatershed. Implementation by permitted stakeholders will be incorporated into the relevant MS4, MSGP, or CGP.

TMDL findings should remain unapplied, at this time, in a regulatory manner such as the MS4 or other similar permits. Before long-term, time benchmarks are applied in a final document, the City needs time to perform a more detailed modeling and scientific study to quantify the extent of capital cost.



ADEQ Response: The manner and timelines for permit compliance will be executed through the Stormwater Permits Unit of ADEQ. The Watershed Protection Unit (now the umbrella for targeted monitoring, TMDLs, 319 Grants, and effectiveness monitoring) will remain involved with nonpoint stakeholders and private parties to promote and support ongoing nonpoint source improvements.

**Doris Cellarius**

**General Comments**

Thank you for doing such a thorough investigation of possible sources of the E coli problems in our creeks. I support reconvening the WIC and increasing the focus on education with well-advertised opportunities for public involvement in green infrastructure throughout the community.

**List of Specific Suggestions:**

1. Add other groups such as Sierra Club Water Sentinels and involve them in public outreach.
2. Target lawn and grounds maintenance businesses and landscape contractors, as well as septic and plumbing maintenance businesses, for specific education about how they can help solve our problems.
3. Involve the City street department in identifying areas of the City where adding bioretention filter strips uphill from creeks would help mitigate the impacts of storms.
4. Assist the City of Prescott Building Department in promoting the use of pervious materials for drive ways and parking lots.
5. Encourage businesses that make and supply paving materials so that there is greater production, advertising and use of pervious materials.
6. For the WIC I think there should be some discussion of why E coli is high at the targeted sites – what's in the area that is on the ground and enters the creek during the first flush?

Response to Suggestions: Thank you for all these ideas; they will be raised and addressed through the WIC, updating of the WIP, and ongoing Watershed Protection Unit involvement.

**Greg Olsen**

**Specific Comment #1:**

Can the analytical data be provided, sorted by sampling station along with the station geographic coordinates? (with the page size maps and data table format, it's kind of hard to determine where the samples were taken relative to the Forest areas)

Response #1: The data will be provided as suggested in an appendix to the updated WIP, scheduled for completion by December, 2015.

**Specific Comment #2:**

Were any of the samples processed for DNA typing, to categorize the sources? (wondering about human, canine, livestock, etc.). This might be helpful information when we need to tease out the nitrogen sources someday...

Response #2: The 2012 WIP version 2.1 contains the results of microbial source tracking on page 38 and 39; please use the following link to review this document. [http://www.azdeq.gov/environ/watershed/download/gc\\_wip.pdf](http://www.azdeq.gov/environ/watershed/download/gc_wip.pdf)

**Specific Comment #3:**

I was looking for just a little more discussion on seasonality...

Response #3: Seasonality as it pertains to baseflow and stormflow was addressed in Section VI and more extensively in the Draft Modeling Report. Critical conditions for loading occur any time storm intensity and duration is sufficient to create overland flow.

**Oak Creek Watershed Council (OCWC)**

**General Comments**

OCWC water quality assessments have determined that indeed turbulent flows (storm event response) with associated suspended sediment are prime indicators for bacteriological exceedances.

E. Coli exceedances within Oak Creek has occurred during base flow and has been attributed to recreationist and their pets



(dogs) disturbing channel floor sediments that re-suspend *E. Coli* that has a lengthy residence times within these sediment layers.

OCWC has identified a major source of *E. Coli* outside developed areas as dog and human feces. Therefore, we have spent major efforts in public information outreach, pet waste stations and incorporating ambassadors and volunteers to remove trash and human/pet feces. Human trash has been associated to encouraging small mammals (raccoons, skunks) to defecate at or near Oak Creek.

OCWC concurs with this TMDL finding of anthropogenic impacts to percent impervious surface areas.

Based on OCWC findings the mortality rates to *E. Coli* based on storm water residence or holding times will be difficult to attain. We understand *E. Coli* can survive in much longer time frames than previous thought.

Based on the findings stated above, Green Infrastructure (GI) will need to filter, absorb or contain *E. Coli* to successfully treat the storm water discharge to tributaries.

ADEQ Response: Thank you for your insights and suggestions. They will be reviewed by the Granite Creek WIC and considered within the revised, updated WIP, scheduled for December, 2015.

**Amanda Richardson**

**Specific Comment #1:**

ADEQ was not consistent in identifying the Modeling Report, referring to it at times as the “Technical Analysis Report”. In addition, the dates for the Draft TMDL and Modeling Report are not consistent.

Response #1: The Modeling Report was drafted in 2013 and updated in 2014 at roughly the same time period that the Draft TMDL Report was completed (December 2014). ADEQ has corrected “Technical Analysis Report” to “Modeling Report”.



GOVERNOR EXECUTIVE ORDERS

The Administrative Procedure Act (APA) requires the full-text publication of Governor Executive Orders.

With the exception of egregious errors, content (including spelling, grammar, and punctuation) of these orders has been reproduced as submitted.

In addition, the Register shall include each statement filed by the Governor in granting a commutation, pardon or reprieve, or stay or suspension of execution where a sentence of death is imposed.

EXECUTIVE ORDER 2015-01

Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies

Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2015, as a notice to the public regarding state agencies' rulemaking activities.

[M15-02]

WHEREAS, Arizona has lost more jobs per capita than any other state and has yet to recover all of those jobs;

WHEREAS, burdensome regulations inhibit job growth and economic development;

WHEREAS, each agency of the State of Arizona should promote customer-service-oriented principles for the people that it serves;

WHEREAS, each State agency should undertake a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay, and legal uncertainty associated with government regulation;

WHEREAS, overly burdensome, antiquated, contradictory, redundant, and nonessential regulations should be repealed;

WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor;

NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

- 1. A State agency, subject to this Order, shall not conduct any rulemaking except as permitted by this Order.
2. A State agency, subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
c. To prevent a significant threat to the public health, peace or safety.
d. To avoid violating a court order or federal law that would result in sanctions by a court or the federal government against an agency for failure to conduct the rulemaking action.
e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
f. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
g. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
h. To address matters pertaining to the control, mitigation or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
3. Paragraphs 1 and 2 apply to all State agencies, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission, or (c) any State agency whose agency head is not appointed by the Governor. Those State agencies to which Paragraphs 1 and 2 do not apply are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
4. Pursuant to Article 5, Section 4 of the Arizona Constitution and Arizona Revised Statutes Section 41-101(A)(1), the State agencies identified in Paragraph 3 must provide the Office of the Governor with a written report for each proposed rule 30 days prior to engaging in any rulemaking proceeding and must also provide the Office of the



Governor with a written report within 15 days of any rulemaking. The reports required by this Paragraph shall explain, in detail, how the rulemaking advances the priorities and principles set forth in this Order.

5. No later than September 1, 2015, each State agency shall provide to the Office of the Governor an evaluation of their rules, with recommendations for which rules could be amended or repealed consistent with the priorities and principles set forth in this Order. The evaluation shall also include a summary of licensing time frames and describe how those time frames compare to real processing time, and whether or not they can be reduced. Additionally, each agency shall identify any existing licenses or permits in which a general permit could be used in lieu of an individual permit, pursuant to Arizona Revised Statutes Section 41-1037.
6. No later than July 1, 2015, each State agency shall provide to the Office of the Governor an update on divisions where electronic reporting and payment are not implemented and a suggested plan for how to implement this customer-service-oriented service.
7. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, “person,” “rule” and “rulemaking” have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.
8. This Executive Order expires on December 31, 2015.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

**Douglas A. Ducey**  
**G O V E R N O R**

**DONE** at the Capitol in Phoenix on this fifth day of January in the year Two Thousand and Fifteen and of the Independence of the United States of America the Two Hundred and Thirty-ninth.

**ATTEST:**  
**Michele Reagan**  
**Secretary of State**



**GOVERNOR PROCLAMATIONS**

The Administrative Procedure Act (APA) requires the publication of Governor proclamations of general applicability, and ceremonial dedications issued by the Governor.

**\* BREAST CANCER AWARENESS MONTH \***

[M15-265]

**WHEREAS**, a woman receives a diagnosis of breast cancer every two minutes, making this disease the most frequently diagnosed cancer among women in the United States, other than skin cancer; and

**WHEREAS**, by the end of 2014, approximately 4,520 new cases of invasive breast cancer are projected to occur among women in the State of Arizona, and about 780 will die from the disease; and

**WHEREAS**, through research and advocacy, significant advances have been made in the fight against breast cancer, including an increase in five-year relative survival rates for localized breast cancer from 74 percent to 98 percent; and

**WHEREAS**, more than 2.8 million breast cancer survivors living in the U.S. today are a testament to courage, as well as to the importance of promoting awareness about breast cancer, providing information, funding research, following recommended screening guidelines, and offering treatment to those who are affected; and

**WHEREAS**, the efforts of various organizations have made a major contribution to spreading breast cancer awareness to both women and men in all communities in this State through outreach, education and screening programs, and have empowered adults with the life-saving message of early detection and the importance of having regular screenings; and

**WHEREAS**, screening rates are declining and a recent study reveals that among women over the age of 40 with health insurance, less than 50 percent receive the recommended annual mammogram; and

**WHEREAS**, it is appropriate that a month should be set apart each year for the attention of the community to be directed toward the importance of breast cancer education, research, screening, treatment and support for all those impacted.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim October 2015 as

**\* BREAST CANCER AWARENESS MONTH \***

and I further encourage citizens to make a renewed commitment to following recommended screening guidelines and for organizations and health practitioners to use this opportunity to promote awareness about breast cancer, proper breast health and encourage annual mammograms and screenings.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**G O V E R N O R**

**DONE** at the Capitol in Phoenix on this twenty-eighth day of September in the year Two Thousand and Fifteen, and of the Independence of the United States of America the Two Hundred and Fortieth.

**ATTEST:**  
**Michele Reagan**  
**Secretary of State**

**\* #COMMIT2TEN \***

[M15-266]

**WHEREAS**, only 1 in 3 children in the United States are physically active each day; and

**WHEREAS**, 15 percent of kids report getting no physical activity at all; and

**WHEREAS**, childhood obesity is a troubling problem that can lead to a lifetime of health difficulties; and

**WHEREAS**, healthy eating and active living in childhood can lead to academic, social and lifelong health benefits; and

**WHEREAS**, as the Governor of Arizona, I pledge to:

1. Make a personal commitment to an additional 10 minutes of physical activity each day.
2. Work to encourage the citizens of my state to engage in 10 additional minutes of physical activity each day and to understand the dangers of inactivity.
3. Support policies that increase access to physical activity for children, especially through increasing access to high quality physical education in schools.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby invite you to take the “#Commit2Ten” pledge on October 2 - 3, 2015.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**G O V E R N O R**

**DONE** at the Capitol in Phoenix on this first day of October in the year Two Thousand and Fifteen, and of the Independence of the United States of America the Two Hundred and Fortieth.

**ATTEST:**  
**Michele Reagan**  
**Secretary of State**

**\* CYBER SECURITY AWARENESS MONTH \***

[M15-267]

**WHEREAS**, the State of Arizona recognizes that it has a vital role in identifying, protecting, and responding to cyber threats that may have significant impact to our individual and collective security and privacy; and

**WHEREAS**, critical infrastructure sectors are increasingly reliant on information systems to support financial services, energy, telecommunications, transportation, utilities, health care, and emergency response systems; and

**WHEREAS**, the Stop.Think.Connect.™ Campaign ([www.dhs.gov/stophinkconnect](http://www.dhs.gov/stophinkconnect) or [www.stophinkconnect.org](http://www.stophinkconnect.org)) has been designated as the National Public Awareness Campaign, implemented through a coalition of private companies, non-profit and government organizations, as well as academic institutions working together to increase the understanding of cyber threats and empowering the American public to be safer and more secure online; and

**WHEREAS**, the National Institute for Standards and Technology Cybersecurity Framework and U.S. Department of Homeland Security’s Critical Infrastructure Cyber Community (C3) Voluntary Program have been developed as free resources to help organizations (large and small, both public and private) implement the Cybersecurity Framework and improve their cyber practices through a practical approach to addressing evolving threats and challenges; and

**WHEREAS**, President Barack Obama signed Executive Order 13691, Promoting Private Sector Cybersecurity Information Sharing, to encourage and promote sharing of cybersecurity threat information within the private sector and between the private sector and government through the development of Information Sharing and Analysis Organizations; and



**WHEREAS**, maintaining the security of cyberspace is a shared responsibility in which each of us has a critical role to play, and awareness of computer security essentials will improve the security of Arizona’s information infrastructure and economy; and

**WHEREAS**, the President of the United States of America, the United States Department of Homeland Security ([www.dhs.gov/cyber](http://www.dhs.gov/cyber)), the Multi-State Information Sharing and Analysis Center ([www.msisac.org](http://www.msisac.org)), the National Association of State Chief Information Officers ([www.nascio.org](http://www.nascio.org)), and the National Cyber Security Alliance ([www.staysafeonline.org](http://www.staysafeonline.org)) have declared October as National Cyber Security Awareness Month; and all citizens are encouraged to visit these sites, along with Arizona Department of Administration – Arizona Strategic Enterprise Technology (ASET) <https://aset.az.gov/resources/security> and the Stop.Think.Connect. Campaign website ([www.dhs.gov/stophinkconnect](http://www.dhs.gov/stophinkconnect) or [www.stophinkconnect.org](http://www.stophinkconnect.org)) to learn about cyber security; and put that knowledge into practice in their homes, schools, workplaces, and businesses.

**NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim October 2015 as**

**\* CYBER SECURITY AWARENESS MONTH \***

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey  
GOVERNOR**

**DONE** at the Capitol in Phoenix on this twenty-eighth day of September in the year Two Thousand and Fifteen, and of the Independence of the United States of America the Two Hundred and Fortieth.

**ATTEST:  
Michele Reagan  
Secretary of State**

**\* DOMESTIC VIOLENCE AWARENESS MONTH \***

[M15-268]

**WHEREAS**, domestic violence is an issue affecting Americans in all communities, regardless of age, gender, economic status, race, religion, nationality, or educational background; and

**WHEREAS**, one in four women and one in seven men in the United States has experienced domestic violence – in Arizona that is more than 800,000 women and 480,000 men; and

**WHEREAS**, the Center for Disease Control and Prevention has estimated that 20 people per minute are victims of domestic violence; and

**WHEREAS**, 10.7 percent of high school students reported being hit, slapped, pushed, shoved, kicked or any other way physically assaulted by their boyfriend or girlfriend during the past year in the 2014 Arizona Youth Survey; and

**WHEREAS**, victims of domestic violence are often prevented from getting or keeping jobs by their abusers, and many victims who leave their abusers face poverty, unemployment, homelessness and even death at the hands of abusers as a result of leaving; and

**WHEREAS**, there were at least 109 domestic violence related deaths in Arizona in 2014; and

**WHEREAS**, domestic violence shelters in Arizona served 3,862 adults and 3,705 children in state fiscal year 2015; and

**WHEREAS**, stopping domestic violence requires uncompromised accountability of offenders; and

**WHEREAS**, enhanced education, prevention, and intervention efforts will increase public awareness, mobilize community action, and confront the abuse of power and control in interpersonal relationships.



NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim October 2015 as

**\* DOMESTIC VIOLENCE AWARENESS MONTH \***

and encourage all citizens of Arizona to support the efforts of organizations that provide education, outreach, and support to victims of domestic violence, and call upon our citizens to dedicate themselves to ending all forms of violence and the abuse in relationships. Working together, taking a stand, "IT CAN STOP."

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**G O V E R N O R**

**DONE** at the Capitol in Phoenix on this twenty-eighth day of September in the year Two Thousand and Fifteen, and of the Independence of the United States of America the Two Hundred and Fortieth.

**ATTEST:**  
**Michele Reagan**  
**Secretary of State**

**\* FILIPINO-AMERICAN HISTORY MONTH \***

[M15-269]

**WHEREAS**, in November 2009, the United States Congress passed a resolution officially recognizing October as Filipino-American History Month; and

**WHEREAS**, Filipinos and Filipino-Americans in the United States have since celebrated Filipino-American History Month (also known as Filipino-American Heritage Month) with community events, programs and activities; and

**WHEREAS**, Filipino-Americans have been a part of the American experience and have remained resolute and steadfast in the face of difficult times and challenges; and

**WHEREAS**, Filipinos are the second largest Asian American group in Arizona and, with 3.4 million Americans with Philippine ancestry living in the United States, they are also the second largest Asian group in the country; and

**WHEREAS**, Filipino-American servicemen and women have a longstanding history serving in the Armed Services, including the 250,000 Filipinos who bravely and courageously fought under the United States flag during World War II and continue to protect and defend this country today; and

**WHEREAS**, Filipino-Americans have made significant contributions to the fine arts, music, dance, literature, journalism, education, business, sports, fashion, politics, government, science, technology and other fields that enrich the landscape of the State of Arizona and this great Nation.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim October 2015 as

**\* FILIPINO-AMERICAN HISTORY MONTH \***

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**G O V E R N O R**

**DONE** at the Capitol in Phoenix on this twenty-eighth day of September in the year Two Thousand and Fifteen and of the Independence of the United States of America the Two Hundred and Fortieth.

**ATTEST:**



Michele Reagan  
Secretary of State

**\* INTERNATIONAL PLASMA AWARENESS WEEK \***

[M15-270]

**WHEREAS**, October 11 – 17 marks International Plasma Awareness Week with observances throughout the United States and Europe designed to raise global awareness of the need for source plasma collection, recognize the contributions of plasma donors to saving and improving lives, and to increase understanding about life-saving plasma protein therapies and rare diseases; and

**WHEREAS**, life-saving plasma-derived and recombinant blood clotting factors, collectively known as plasma protein therapies are unique, biologic products for which no substitute therapies exist, save and improve lives of individuals throughout the world; and

**WHEREAS**, plasma protein therapies are used to treat many conditions including bleeding disorders, primary immunodeficiency diseases, Alpha-1 antitrypsin deficiency and certain rare neurological disorders; and

**WHEREAS**, these therapies are also used in emergency and surgical medicine to save and improve lives; and

**WHEREAS**, these therapies have significantly improved the quality of life, markedly improved patient outcomes, extended life expectancy for individuals with rare diseases, specifically those with plasma protein disorders; and

**WHEREAS**, there are twelve plasma donation centers in this state certified under the International Quality Plasma Program where healthy and committed donors provide plasma that is used to manufacture high-impact, life-saving therapies.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim October 11 - 17, 2015 as

**\* INTERNATIONAL PLASMA AWARENESS WEEK \***

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**G O V E R N O R**

**DONE** at the Capitol in Phoenix on this first day of October in the year Two Thousand and Fifteen, and of the Independence of the United States of America the Two Hundred and Fortieth.

**ATTEST:**  
**Michele Reagan**  
**Secretary of State**

**\* LEAD POISONING PREVENTION WEEK \***

[M15-271]

**WHEREAS**, every year, hundreds of children are reported to have elevated blood lead levels in Arizona; and

**WHEREAS**, even at low levels, lead poisoning can cause developmental, learning, and behavioral problems; and

**WHEREAS**, children with lead poisoning usually look and feel healthy and the only way to detect lead poisoning is through a blood test; and

**WHEREAS**, young children are most at risk because they are still developing, put things in their mouths, and absorb lead easily; and

**WHEREAS**, all children living in high risk zip codes should receive a blood lead test by their health care provider at 12 and 24 months of age; and



**WHEREAS**, all children not living in a high risk zip code should have a questionnaire completed to determine risk by their health care provider at 12 and 24 months of age; and

**WHEREAS**, lead-based paint in homes built before 1978 is not the only source of lead poisoning; imported glazed pottery, imported spices, home remedies, and imported or older toys are other sources found in Arizona; and

**WHEREAS**, lead poisoning is entirely preventable.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim October 25 – 31, 2015 as

**\* LEAD POISONING PREVENTION WEEK \***

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**G O V E R N O R**

**DONE** at the Capitol in Phoenix on this first day of October in the year Two Thousand and Fifteen, and of the Independence of the United States of America the Two Hundred and Fortieth.

**ATTEST:**  
**Michele Reagan**  
**Secretary of State**

**\* MALE BREAST CANCER AWARENESS WEEK \***

[M15-272]

**WHEREAS**, an estimated 2,300 men in the United States are diagnosed with breast cancer each year and an estimated 450 men each year will die from the disease; and

**WHEREAS**, the public commonly thinks of breast cancer as a disease affecting only women, a misconception that can delay diagnosis and treatment in men, often leading to death; and

**WHEREAS**, early detection of male breast cancer is critical, as men who are diagnosed when breast cancer is in its earliest stages have an increased chance of successful treatment and, ultimately, survival; and

**WHEREAS**, due in part to a lack of awareness that men can develop the disease, men are generally diagnosed with breast cancer at a later stage than women, which affects prognosis and treatment; and

**WHEREAS**, in order to facilitate early diagnosis and prompt treatment of male breast cancer, public education, awareness, and understanding of the disease is necessary; and

**WHEREAS**, in remembrance of the men who have lost their lives to breast cancer, and in support of those who are currently fighting this often overlooked disease, it is appropriate to recognize Male Breast Cancer Awareness Week.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim October 18 – 24, 2015 as

**\* MALE BREAST CANCER AWARENESS WEEK \***

and I urge Arizona residents to raise public awareness and understanding of this disease to help facilitate earlier detection.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**G O V E R N O R**



**DONE** at the Capitol in Phoenix on this twenty-eighth day of September in the year Two Thousand and Fifteen, and of the Independence of the United States of America the Two Hundred and Fortieth.

**ATTEST:**  
**Michele Reagan**  
**Secretary of State**

**\* VALUE OF WATER WEEK \***

[M15-273]

**WHEREAS**, the Value of Water Coalition has launched a national effort to educate and engage the public about how water is essential, invaluable, and worthy of investment, and has designated October 6 – 8, 2015 as a time to Imagine a Day Without Water; and

**WHEREAS**, water is one of Arizona’s most vital resources and investments in infrastructure are essential to the quality of life and economic vitality of the State of Arizona; and

**WHEREAS**, properly functioning infrastructure is necessary to get water to homes and businesses, yet is often taken for granted because pipes are hidden underground and treatment plants are behind block walls; and

**WHEREAS**, water utilities in Arizona treat millions of gallons of water per day to provide clean and reliable water to over six million people; and

**WHEREAS**, a vibrant and sustainable economy is dependent upon reliable and sustainable sources of clean water; and

**WHEREAS**, together, by imagining what life would be like without water, and communicating the value of it, we can ensure a long-term, sufficient water supply for Arizona.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim October 5 - 9, 2015 as

**\* VALUE OF WATER WEEK \***

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

**Douglas A. Ducey**  
**G O V E R N O R**

**DONE** at the Capitol in Phoenix on this twenty-eighth day of September in the year Two Thousand and Fifteen, and of the Independence of the United States of America the Two Hundred and Fortieth.

**ATTEST:**  
**Michele Reagan**  
**Secretary of State**

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**REGISTER INDEXES**

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The *Register* is published by volume in a calendar year (See “Information” in the front of each issue for a more detailed explanation).

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Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**

PN = Proposed new Section  
PM = Proposed amended Section  
PR = Proposed repealed Section  
P# = Proposed renumbered Section

**SUPPLEMENTAL PROPOSED RULEMAKING**

SPN = Supplemental proposed new Section  
SPM = Supplemental proposed amended Section  
SPR = Supplemental proposed repealed Section  
SP# = Supplemental proposed renumbered Section

**FINAL RULEMAKING**

FN = Final new Section  
FM = Final amended Section  
FR = Final repealed Section  
F# = Final renumbered Section

**SUMMARY RULEMAKING****PROPOSED SUMMARY**

PSMN = Proposed Summary new Section  
PSMM = Proposed Summary amended Section  
PSMR = Proposed Summary repealed Section  
PSM# = Proposed Summary renumbered Section

**FINAL SUMMARY**

FSMN = Final Summary new Section  
FSMM = Final Summary amended Section  
FSMR = Final Summary repealed Section  
FSM# = Final Summary renumbered Section

**EXPEDITED RULEMAKING****PROPOSED EXPEDITED**

PEN = Proposed Expedited new Section  
PEM = Proposed Expedited amended Section  
PER = Proposed Expedited repealed Section  
PE# = Proposed Expedited renumbered Section

**SUPPLEMENTAL EXPEDITED**

SPEN = Supplemental Proposed Expedited new Section  
SPEM = Supplemental Proposed Expedited amended Section  
SPER = Supplemental Proposed Expedited repealed Section  
SPE# = Supplemental Proposed Expedited renumbered Section

**FINAL EXPEDITED**

FEN = Final Expedited new Section  
FEM = Final Expedited amended Section  
FER = Final Expedited repealed Section  
FE# = Final Expedited renumbered Section

**EXEMPT RULEMAKING****EXEMPT PROPOSED**

PXN = Proposed Exempt new Section  
PXM = Proposed Exempt amended Section  
PXR = Proposed Exempt repealed Section  
PX# = Proposed Exempt renumbered Section

**EXEMPT SUPPLEMENTAL PROPOSED**

SPXN = Supplemental Proposed Exempt new Section  
SPXR = Supplemental Proposed Exempt repealed Section  
SPXM = Supplemental Proposed Exempt amended Section  
SPX# = Supplemental Proposed Exempt renumbered Section

**FINAL EXEMPT RULMAKING**

FXN = Final Exempt new Section  
FXM = Final Exempt amended Section  
FXR = Final Exempt repealed Section  
FX# = Final Exempt renumbered Section

**EMERGENCY RULEMAKING**

EN = Emergency new Section  
EM = Emergency amended Section  
ER = Emergency repealed Section  
E# = Emergency renumbered Section  
EEXP = Emergency expired

**RECODIFICATION OF RULES**

RC = Recodified

**REJECTION OF RULES**

RJ = Rejected by the Attorney General

**TERMINATION OF RULES**

TN = Terminated proposed new Sections  
TM = Terminated proposed amended Section  
TR = Terminated proposed repealed Section  
T# = Terminated proposed renumbered Section

**RULE EXPIRATIONS**

EXP = Rules have expired

*See also “emergency expired” under emergency rulemaking*

**CORRECTIONS**

C = Corrections to Published Rules

**2015 Arizona Administrative Register  
Volume 21 Page Guide**

Issue 1, Jan. 2, 2015.....1-46	Issue 16, April 17, 2015.....539-566	Issue 31, July 31, 2015.....1221-1457
Issue 2, Jan. 9, 2015 ..... 47-112	Issue 17, April 24, 2015.....567-606	Issue 32, August 7, 2015.....1458-1520
Issue 3, Jan. 16, 2015..... 113-152	Issue 18, May 1, 2015.....607-632	Issue 33, August 14, 2015.....1521-1622
Issue 4, Jan. 23, 2015 ..... 153-172	Issue 19, May 8, 2015.....633-666	Issue 34, August 21, 2015.....1623-1670
Issue 5, Jan. 30, 2015 ..... 173-196	Issue 20, May 15, 2015.....667-706	Issue 35, August 28, 2015.....1671-1760
Issue 6, Feb. 6, 2015..... 197-228	Issue 21, May 22, 2015.....707-742	Issue 36, September 4, 2015.....1761-1810
Issue 7, Feb. 13, 2015.....229-262	Issue 22, May 29, 2015.....743-774	Issue 37, September 11, 2015...1811-1882
Issue 8, Feb. 20, 2015.....263-284	Issue 23, June 5, 2015.....775-818	Issue 38, September 18, 2015...1883-2004
Issue 9, Feb. 27, 2015.....285-320	Issue 24, June 12, 2015.....819-864	Issue 39, September 25, 2015...2005-2104
Issue 10, March 6, 2015.....321-374	Issue 25, June 19, 2015.....865-916	Issue 40, October 2, 2015.....2105-2276
Issue 11, March 13, 2015.....375-406	Issue 26, June 26, 2015.....917-954	
Issue 12, March 20, 2015.....407-432	Issue 27, July 3, 2015.....955-996	
Issue 13, March 27, 2015.....433-482	Issue 28, July 10, 2015.....997-1072	
Issue 14, April 3, 2015.....483-516	Issue 29, July 17, 2015.....1073-1146	
Issue 15, April 10, 2015.....517-538	Issue 30, July 24, 2015.....1147-1220	

**RULEMAKING ACTIVITY INDEX**

Rulemakings are listed in the Index by Chapter, Section number, rulemaking activity abbreviation and by volume page number. Use the page guide above to determine the *Register* issue number to review the rule. Headings for the Subchapters, Articles, Parts, and Sections are not indexed.

**THIS INDEX INCLUDES RULEMAKING ACTIVITY THROUGH ISSUE 40 OF VOLUME 21.**

<b>Arizona Health Care Cost Containment System - Administration</b>	<b>Barbers, Board of</b>	R4-5-408.	PM-869
R9-22-202. FM-1225	R4-5-101. PM-869	R4-5-409.	PM-869
R9-22-712.05. PM-1815	R4-5-102. PM-869	R4-5-410.	PR-869
R9-22-712.07. PM-1768	R4-5-103. PM-869	R4-5-411.	PM-869
R9-22-730. PXM-5;	R4-5-104. PM-869	R4-5-501.	PM-869
PXM-491;	R4-5-105. PR-869	R4-5-502.	PM-869
FXM-637;	R4-5-106. PM-869	<b>Clean Elections Commission, Citizens</b>	
PXM-1041;	R4-5-107. PM-869	R2-20-107.	PXM-779;
FXM-1486	R4-5-108. PM-869		FXM-1627
R9-22-1001. FM-1237	Table 1. PN-869	R2-20-109.	PXM-781;
R9-22-1002. FM-1237	R4-5-109. P#-869;		PXM-1977;
R9-22-1003. FM-1237	PM-869		PXM-2043
R9-22-1202. FM-1225	R4-5-201. PM-869	R2-20-110.	PXM-785;
R9-22-1301. PM-823;	R4-5-202. PM-869		FXM-1629
FM-2022	R4-5-203. PM-869	R2-20-111.	PXM-787;
R9-22-1303. PM-823;	R4-5-204. P#-869		FXM-1631
FM-2022	R4-5-301. PM-869	R2-20-113.	PXN-789;
R9-22-1304. PM-823;	R4-5-302. PM-869		FXM-1633
FM-2022	R4-5-303. PM-869	R2-20-204.	PXM-790;
R9-22-1431. FR-1241	R4-5-304. PM-869		FXM-1634
<b>Arizona Health Care Cost Containment System - Arizona Long-term Care System</b>	R4-5-305. PN-869	R2-20-205.	PXM-831;
R9-28-202. PM-487;	R4-5-401. PM-869		FXM-1636
FM-1243	R4-5-402. PM-869	R2-20-206.	PXM-792;
R9-28-206. PM-487;	R4-5-403. PM-869		FXM-1638;
FM-1243	R4-5-404. PM-869	R2-20-208.	PXM-1981
<b>Behavioral Health Examiners, Board of</b>	R4-5-405. PM-869		PXM-1772;
R4-6-602. EM-521	Exhibit 1. PM-869		PXM-1822;
	Exhibit 2. PM-869	R2-20-402.01.	PXM-1983
	R4-5-406. PM-869		PXM-833;
	R4-5-407. PM-869		FXM-1640

R2-20-703.	PXM-834; FXM-1641	R6-13-303.	EXP-157	R7-2-1012.	FXN-1525
R2-20-704.	PXM-836; FXM-1643	R6-13-304.	EXP-157	R7-2-1013.	FXN-1525
<b>Collateral Pool, Statewide</b>		R6-13-305.	EXP-157	R7-2-1014.	FXN-1525
R2-14-101.	FN-233	R6-13-306.	EXP-157	R7-2-1015.	FXN-1525
R2-14-102.	FN-233	R6-13-308.	EXP-157	R7-2-1016.	FXN-1525
R2-14-103.	FN-233	R6-13-309.	EXP-157	R7-2-1018.	FXN-1525
R2-14-104.	FN-233	R6-13-310.	EXP-157	R7-2-1021.	FXM-1525
R2-14-105.	FN-233	R6-13-311.	EXP-157	R7-2-1022.	FXM-1525
R2-14-106.	FN-233	R6-13-312.	EXP-157	R7-2-1023.	FXM-1525
R2-14-107.	FN-233	R6-13-313.	EXP-157	R7-2-1024.	FXM-1525
R2-14-108.	FN-233	R6-13-314.	EXP-157	R7-2-1025.	FXM-1525
R2-14-109.	FN-233	R6-13-314.01.	EXP-157	R7-2-1026.	FXM-1525
<b>Corporation Commission - Fixed Utilities</b>		R6-13-317.	EXP-157	R7-2-1027.	FXM-1525
R14-2-1805.	FM-379	R6-13-318.	EXP-157	R7-2-1028.	FXM-1525
R14-2-1812.	FM-379	R6-13-319.	EXP-157	R7-2-1029.	FXM-1525
<b>Corporation Commission - Transportation</b>		R6-13-320.	EXP-157	R7-2-1030.	FXM-1525
R14-5-202.	PM-674	R6-13-321.	EXP-157	R7-2-1031.	FXM-1525
R14-5-203.	PM-674	R6-13-1201.	EXP-157	R7-2-1032.	FXM-1525
R14-5-204.	PM-674	R6-13-1202.	EXP-157	R7-2-1033.	FXM-1525
R14-5-205.	PM-674	R6-13-1203.	EXP-157	R7-2-1035.	FXM-1525
R14-5-207.	PM-674	R6-13-1204.	EXP-157	R7-2-1036.	FXM-1525
<b>Cosmetology, Board of</b>		R6-13-1206.	EXP-157	R7-2-1037.	FXM-1525
R4-10-102.	PM-1765	R6-13-1209.	EXP-157	R7-2-1041.	FXM-1525
R4-10-107.	PM-1765	R6-13-1210.	EXP-157	R7-2-1042.	FXM-1525
R4-10-110.	PM-1765	R6-13-1211.	EXP-157	R7-2-1044.	FXM-1525
<b>Dental Examiners, State Board of</b>		R6-13-1212.	EXP-157	R7-2-1045.	FXM-1525
R4-11-201.	PM-1887	<b>Education, State Board of</b>		R7-2-1046.	FXM-1525
R4-11-202.	PM-1887	R7-2-205.	FXM-1775	R7-2-1047.	FXM-1525
R4-11-203.	PM-1887	R7-2-301.	FXM-1778	R7-2-1048.	FXM-1525
R4-11-204.	PM-1887	R7-2-302.	FXM-1778	R7-2-1049.	FXM-1525
R4-11-205.	PM-1887	R7-2-307.	FXM-1781	R7-2-1050.	FXM-1525
R4-11-301.	PM-1887	R7-2-308.	FXM-1781	R7-2-1053.	FXM-1525
R4-11-302.	PR-1887	R7-2-604.	FXM-2047	R7-2-1055.	FXM-1525
R4-11-303.	PM-1887	R7-2-604.01.	FXM-2047	R7-2-1056.	FXM-1525
R4-11-304.	PM-1887	R7-2-604.02.	FXM-2047	R7-2-1057.	FXM-1525
R4-11-305.	PM-1887	R7-2-604.03.	FXM-2047	R7-2-1058.	FXM-1525
R4-11-1202.	FM-921	R7-2-604.04.	FXM-2047	R7-2-1061.	FXM-1525
R4-11-1701.	PM-671	R7-2-607.	FXM-2054	R7-2-1062.	FXM-1525
<b>Economic Security, Department of - State Assistance Programs</b>		R7-2-610.	FXM-2054	R7-2-1063.	FXM-1525
R6-13-201.	EXP-157	R7-2-611.	FXM-2056	R7-2-1066.	FXM-1525
R6-13-202.	EXP-157	R7-2-612.	FXM-2063	R7-2-1067.	FXR-1525; FXN-1525
R6-13-203.	EXP-157	R7-2-613.	FXM-2073	R7-2-1068.	FXM-1525
R6-13-204.	EXP-157	R7-2-614.	FXM-2073	R7-2-1069.	FXN-1525
R6-13-205.	EXP-157	R7-2-617.	FXM-2077	R7-2-1070.	FXN-1525
R6-13-206.	EXP-157	R7-2-701.	FXM-1775	R7-2-1073.	FXM-1525
R6-13-207.	EXP-157	R7-2-703.	FXM-1775	R7-2-1074.	FXM-1525
R6-13-208.	EXP-157	R7-2-809.	FXN-1784	R7-2-1075.	FXM-1525
R6-13-209.	EXP-157	R7-2-1001.	FXM-1525	R7-2-1076.	FXM-1525
R6-13-210.	EXP-157	R7-2-1002.	FXM-1491; FXM-1525	R7-2-1078.	FXM-1525
R6-13-211.	EXP-157	R7-2-1003.	FXM-1525	R7-2-1079.	FXM-1525
R6-13-212.	EXP-157	R7-2-1004.	FXM-1525	R7-2-1080.	FXM-1525
R6-13-213.	EXP-157	R7-2-1005.	FXM-1525	R7-2-1081.	FXM-1525
R6-13-214.	EXP-157	R7-2-1006.	FXM-1525	R7-2-1083.	FXM-1525
R6-13-215.	EXP-157	R7-2-1007.	FXM-1525	R7-2-1084.	FXM-1525
R6-13-216.	EXP-157	R7-2-1008.	FXR-1525; FXN-1525	R7-2-1085.	FXM-1525
R6-13-302.	EXP-157	R7-2-1009.	FXR-1525	R7-2-1086.	FXM-1525
		R7-2-1010.	FXM-1525	R7-2-1087.	FXN-1525
		R7-2-1011.	FXN-1525	R7-2-1091.	FXR-1525

R7-2-1092.	FXR-1525; FXN-1525	R7-2-1191.	FXM-1525	R18-11-112.	PM-1895; TM-1986
R7-2-1093.	FXM-1525	R7-2-1192.	FXM-1525	R18-11-115.	PM-1895; TM-1986
R7-2-1100.	FXN-1525	R7-2-1194.	FXM-1525	R18-11-121.	PM-1895; TM-1986
R7-2-1101.	FXM-1525	R7-2-1195.	FXM-1525		
R7-2-1102.	FXM-1525	R7-2-1196.	FXN-1525		
R7-2-1103.	FXM-1525	<b>Emergency and Military Affairs, Department of - Division of Emergency Management</b>		Appendix A.	PM-1895; TM-1986
R7-2-1104.	FXM-1525	R8-2-101.	PM-1151	Appendix B.	PM-1895; TM-1986
R7-2-1105.	FXM-1525	R8-2-102.	PM-1151	Appendix C.	PM-1895; TM-1986
R7-2-1106.	FXN-1525	R8-2-103.	PM-1151		
R7-2-1107.	FXN-1525	R8-2-104.	PM-1151		
R7-2-1108.	FXN-1525	R8-2-105.	PM-1151		
R7-2-1109.	FXM-1525	<b>Environmental Quality, Department of - Air Pollution Control</b>		<i>Editor's Note: The terminated rulemaking action (TM) notated in the above sections is in reference to the Notice of Proposed Rulemaking published at 20 A.A.R. 3590, December 26, 2014.</i>	
R7-2-1110.	FXM-1525	R18-2-210.	FXM-1156	<b>Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers, Board of</b>	
R7-2-1111.	FXM-1525	R18-2-610.	FXM-1156	R4-33-101.	FM-543
R7-2-1112.	FXM-1525	R18-2-610.01.	FXM-1156	R4-33-108.	FM-543
R7-2-1113.	FXM-1525	R18-2-610.02.	FXN-1156	R4-33-203.	FM-543
R7-2-1114.	FXM-1525	R18-2-610.03.	FXN-1156	R4-33-208.	FM-543
R7-2-1115.	FXM-1525	R18-2-611.	FXM-1156	R4-33-212.	FN-543
R7-2-1116.	FXR-1525	R18-2-611.01.	FXM-1156	R4-33-302.	FM-543
R7-2-1117.	FXM-1525	R18-2-611.02.	FXN-1156	R4-33-401.	FM-543
R7-2-1118.	FXM-1525	R18-2-611.03.	FXN-1156	R4-33-402.	FM-543
R7-2-1119.	FXR-1525; FXN-1525	R18-2-612.	FXR-1156; FXN-1156	R4-33-407.	FM-543
R7-2-1120.	FXM-1525	R18-2-612.01	FXN-1156	R4-33-408.	FM-543
R7-2-1121.	FXM-1525	R18-2-613.	FXR-1156; FXN-1156	R4-33-411.	FN-543
R7-2-1122.	FXM-1525	R18-2-613.01.	FXN-1156	<b>Financial Institutions, Department of</b>	
R7-2-1123.	FXM-1525	Appendix 2.	FXM-1156	R20-4-707.	EXP-411
R7-2-1125.	FXM-1525	R18-2-701.	FM-711	<b>Financial Institutions, Department of - Real Estate Appraisal Division</b>	
R7-2-1131.	FXM-1525	R18-2-733.	FR-711	R4-46-101.	FM-1675
R7-2-1141.	FXM-1525	R18-2-733.01..	FR-711	R4-46-102.	FM-1675
R7-2-1142.	FXM-1525	R18-2-734.	FM-711	R4-46-103.	FM-1675
R7-2-1143.	FXM-1525	<b>Environmental Quality, Department of - Hazardous Waste Management</b>		R4-46-106.	FM-1675
R7-2-1144.	FXM-1525	R18-8-260.	FM-1246	R4-46-107.	FN-1675
R7-2-1145.	FXM-1525	R18-8-261.	FM-1246	R4-46-401.	FR-1675; FN-1675
R7-2-1146.	FXM-1525	R18-8-262.	FM-1246	R4-46-402.	FN-1675
R7-2-1147.	FXM-1525	R18-8-263.	FM-1246	R4-46-403.	FN-1675
R7-2-1148.	FXM-1525	R18-8-264.	FM-1246	R4-46-404.	FN-1675
R7-2-1149.	FXM-1525	R18-8-265.	FM-1246	R4-46-405.	FN-1675
R7-2-1150.	FXM-1525	R18-8-266.	FM-1246	R4-46-406.	FN-1675
R7-2-1151.	FXM-1525	R18-8-268.	FM-1246	R4-46-407.	FN-1675
R7-2-1152.	FXM-1525	R18-8-270.	FM-1246	R4-46-408.	FN-1675
R7-2-1153.	FXM-1525	R18-8-271.	FM-1246	R4-46-501.	FM-1675
R7-2-1155.	FXM-1525	R18-8-273.	FM-1246	R4-46-502.	FN-1675
R7-2-1156.	FXM-1525	<b>Environmental Quality, Department of - Water Pollution Control</b>		R4-46-503.	FR-1675; FN-1675
R7-2-1157.	FXM-1525	R18-9-1002.	FM-751	R4-46-504.	FN-1675
R7-2-1158.	FXM-1525	R18-9-1015.	FM-751	R4-46-505.	FN-1675
R7-2-1159.	FXM-1525	<b>Environmental Quality, Department of - Water Quality Standards</b>		R4-46-506.	FN-1675
R7-2-1161.	FXM-1525	R18-11-106.	PM-1895; TM-1986	R4-46-507.	FN-1675
R7-2-1164.	FXM-1525	R18-11-109.	PM-1895; TM-1986	R4-46-508.	FN-1675
R7-2-1165.	FXM-1525	R18-11-110.	PM-1895; TM-1986	R4-46-509.	FN-1675
R7-2-1167.	FXM-1525			R4-46-510.	FN-1675
R7-2-1168.	FXM-1525			R4-46-511.	FN-1675
R7-2-1169.	FXM-1525				
R7-2-1170.	FXM-1525				
R7-2-1181.	FXM-1525				
R7-2-1182.	FXM-1525				
R7-2-1183.	FXM-1525				
R7-2-1184.	FXM-1525				
R7-2-1185.	FXM-1525				

R4-46-601.	FM-1675	<b>Insurance, Department of</b>	R4-18-502.	PM-201;
R4-46-602.	FR-1675	R20-6-1401.		FM-2009
<b>Fingerprinting, Board of</b>		R20-6-1402.	R4-18-904.	EM-51;
R13-11-101.	EXP-465	R20-6-1403.		EM-928;
<b>Fire, Building and Life Safety, Department of</b>		R20-6-1404.		FM-2009
R4-36-201.	PM-1077	R20-6-1405.	<b>Power Authority, Arizona</b>	
R4-36-301.	PM-1077	R20-6-1406.	R12-14-602.	FR-297
R4-36-302.	PM-1077	R20-6-1407.	R12-14-603.	FN-297
R4-36-303.	PM-1077	R20-6-1408.	R12-14-604.	FN-297
R4-36-304.	PM-1077		R12-14-605.	FN-297
R4-36-305.	PM-1077	R20-6-1409.	R12-14-606.	FN-297
R4-36-307.	PM-1077	R20-6-1410.	R12-14-607.	FN-297
R4-36-308.	PM-1077	Appendix A.	R12-14-608.	FN-297
R4-36-309.	PM-1077	Appendix B.	R12-14-609.	FN-297
R4-36-310.	PM-1077	Appendix C.	R12-14-610.	FN-297
R4-36-311.	PR-1077	Appendix D.	R12-14-611.	FN-297
R4-36-401.	FM-571	Appendix E.	R12-14-612.	FN-297
<b>Game and Fish Commission</b>			R12-14-613.	FN-297
R12-4-101.	PM-1001		R12-14-614.	FN-297
R12-4-103.	PM-1001	Appendix F.	R12-14-615.	FN-297
R12-4-104.	PM-1001	Appendix G.	R12-14-616.	FN-297
R12-4-105.	PM-1001		R12-14-617.	FN-297
R12-4-106.	PM-1001		R12-14-618.	FN-297
R12-4-107.	PM-1001	<b>Pest Management, Office of</b>	R12-14-619.	FN-297
R12-4-108.	PM-1001	R4-29-102.	R12-14-620.	FN-297
R12-4-110.	PM-1001	R4-29-103.	R12-14-621.	FN-297
R12-4-111.	PM-1001	R4-29-202.	R12-14-622.	FN-297
R12-4-112.	PM-1001	R4-29-203.	R12-14-623.	FN-297
R12-4-113.	PM-1001	R4-29-204.	R12-14-624.	FN-297
R12-4-114.	PM-1001	R4-29-207.	R12-14-625.	FN-297
R12-4-115.	PM-1001	R4-29-208.	R12-14-626.	FN-297
R12-4-116.	PM-1001	R4-29-304.	R12-14-627.	FN-297
R12-4-117.	PM-1001	R4-29-307.	R12-14-628.	FN-297
R12-4-118.	PN-1001	R4-29-308.	R12-14-629.	FN-297
R12-4-119.	PM-1001	R4-29-501.	R12-14-630.	FN-297
R12-4-120.	PM-1001	R4-29-503.	R12-14-631.	FN-297
R12-4-121.	PM-1001	<b>Physical Therapy, Board of</b>	R12-14-632.	FN-297
R12-4-124.	PN-1001	R4-24-208.	<b>Public Safety, Department of - Concealed Weapons Permits</b>	
R12-4-125.	P#-1001;	R4-24-313.	R13-9-302.	EXP-795
	PM-1001	<b>Physicians Medical Board, Neuro-pathic</b>	R13-9-305.	EXP-795
R12-4-202.	PM-747	R4-18-101.	R13-9-307.	EXP-795
R12-4-302.	PM-1001		R13-9-308.	EXP-795
R12-4-504.	FXM-1046	R4-18-107.	R13-9-309.	EXP-795
R12-4-611.	PM-1001		R13-9-310.	EXP-795
R12-4-804.	P#-1001	R4-18-202.	<b>Public Safety, Department of - School Buses</b>	
R12-4-901.	EXP-757		R13-13-105.	PM-1461
R12-4-902.	EXP-757	R4-18-203.	R13-13-106.	PM-1461
R12-4-903.	EXP-757		R13-13-107.	PM-1461
R12-4-904.	EXP-757	R4-18-204.	R13-13-108.	PM-1461
R12-4-905.	EXP-757		<b>Racing Commission, Arizona</b>	
R12-4-906.	EXP-757	R4-18-206.	R19-2-205.	FXM-640
<b>Health Services, Department of - Health Care Institutions: Licensing</b>			R19-2-401.	FXM-643
R9-10-119.	EN-1787	R4-18-207.	<b>Radiation Regulatory Agency</b>	
<b>Health Services, Department of - Health Programs Services</b>			R12-1-1215.	FM-289
R9-13-201.	FXM-1083	R4-18-208.	Table A.	FM-289
R9-13-202.	FXM-1083		R12-1-1302.	FM-289
R9-13-203.	FXM-1083	R4-18-209.	R12-1-1306.	FM-289
R9-13-207.	FXM-1083		<b>Radiation Regulatory Agency - Medical Radiologic Technology Board of Exam-</b>	
		R4-18-501.		

<b>iners</b>		<b>Revenue, Department of - General Administration</b>	R17-5-901.	FXN-1825	
R12-2-101.	FM-573	R15-10-108.	EXP-1197	R17-5-902.	FXN-1825
R12-2-102.	FM-573	R15-10-109.	EXP-1197	R17-5-903.	FXN-1825
R12-2-104.	FR-573;	R15-10-118.	EXP-1197	R17-5-904.	FXN-1825
	FN-573	R15-10-202.	EXP-1197	R17-5-905.	FXN-1825
R12-2-201.	FR-573;	R15-10-702.	EN-1830	R17-5-906.	FXN-1825
	FN-573	R15-10-703.	EN-1830	<b>Transportation, Department of - Title, Registration, and Driver Licenses</b>	
R12-2-202.	FR-573;	R15-10-704.	EN-1830	R17-4-401.	FXM-1092
	FN-573	R15-10-706.	EN-1830	R17-4-404.	FXM-1092
R12-2-203.	FR-573;	<b>Revenue, Department of - Income and Withholding Tax Section</b>		<b>Weights and Measures, Department of</b>	
	FN-573	R15-2C-202.	EXP-465	R20-2-101.	PM-437;
R12-2-204.	FR-573;	R15-2C-204.	EXP-465		FM-1693
	FN-573	<b>Secretary of State, Office of</b>		R20-2-901.	PM-437;
R12-2-205.	FR-573;	R1-1-101.	FM-117		FM-1693
	FN-573	R1-1-103.	FM-117	R20-2-902.	PM-437;
R12-2-206.	FR-573;	R1-1-104.	FM-117		FM-1693
	FN-573	R1-1-105.	FM-117	R20-2-903.	PM-437;
R12-2-207.	FR-573;	R1-1-106.	FM-117		FM-1693
	FN-573	R1-1-107.	FM-117	R20-2-904.	PM-437;
R12-2-208.	FN-573	R1-1-109.	FM-117		FM-1693
R12-2-301.	FR-573;	R1-1-110.	FM-117	R20-2-906.	PM-437;
	FN-573	R1-1-114.	FM-117		FM-1693
R12-2-302.	FN-573	R1-1-202.	FM-117	R20-2-907.	PM-437;
R12-2-303.	FN-573	R1-1-205.	FM-117		FM-1693
R12-2-304.	FN-573	R1-1-211.	FM-117	R20-2-908.	PM-437
R12-2-305.	FN-573	R1-1-302.	FM-117	R20-2-909.	PM-437;
R12-2-401.	FR-573;	R1-1-401.	FM-117		FM-1693
	FN-573	R1-1-414.	FM-117	R20-2-910.	PM-437;
R12-2-402.	FR-573;	R1-1-502.	FM-117		FM-1693
	FN-573	R1-1-801.	FR-117;	R20-2-913.	FN-437;
R12-2-403.	FR-573;		FN-117		FM-1693
	FN-573	R1-1-802.	FN-117	R20-2-1001.	PN-437;
R12-2-404.	FR-573;	R1-1-803.	FN-117		FN-1693
	FN-573	R1-1-1001.	FM-117	R20-2-1002.	PN-437;
R12-2-405.	FR-573;	<b>State Real Estate Department</b>			FN-1693
	FN-573	R4-28-405.	EXP-757	R20-2-1003.	PN-437;
R12-2-406.	FR-573;	<b>Transportation, Department of - Commercial Programs</b>			FN-1693
	FN-573	R17-5-301.	FXM-1096	R20-2-1004.	PN-437;
R12-2-501.	FR-573	R17-5-302.	FXM-1096		FN-1693
R12-2-502.	FR-573	R17-5-303.	FXN-1096	R20-2-1005.	PN-437;
R12-2-503.	FR-573	R17-5-304.	FXN-1096		FN-1693
R12-2-504.	FR-573	R17-5-305.	FXN-1096	R20-2-1006.	PN-437;
R12-2-505.	FR-573	R17-5-306.	FXN-1096		FN-1693
R12-2-506.	FR-573	R17-5-307.	FXN-1096	R20-2-1007.	PN-437;
R12-2-601.	FR-573	R17-5-308.	FXN-1096		FN-1693
R12-2-602.	FR-573	R17-5-309.	FXN-1096	R20-2-1008.	PN-437;
R12-2-603.	FR-573	R17-5-310.	FXN-1096		FN-1693
R12-2-604.	FR-573	R17-5-311.	FXN-1096	R20-2-1009.	PN-437;
R12-2-605.	FR-573	R17-5-312.	FXN-1096		FN-1693
<b>Retirement System Board, State</b>		R17-5-313.	FXN-1096	R20-2-1010.	PN-437;
R2-8-104.	PM-959	R17-5-314.	FXN-1096		FN-1693
R2-8-115.	PM-959	R17-5-315.	FXN-1096	R20-2-1011.	PN-437;
R2-8-118.	PM-959	R17-5-316.	FXN-1096		FN-1693
R2-8-120.	PM-959	R17-5-317.	FXN-1096	R20-2-1012.	PN-437;
R2-8-123.	PM-959	R17-5-318.	FXN-1096		FN-1693
R2-8-126.	PM-959	R17-5-319.	FXN-1096	R20-2-1013.	PN-437;
R2-8-401.	PM-959	R17-5-320.	FXN-1096		FN-1693
R2-8-501.	PM-959	R17-5-321.	FXN-1096	Table 1.	PN-437;
R2-8-601.	PM-959				FN-1693
R2-8-701.	PM-959				FN-1693

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**OTHER NOTICES AND PUBLIC RECORDS INDEX**

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Other notices related to rulemakings are listed in the Index by notice type, agency/county and by volume page number. Agency policy statements and proposed delegation agreements are included in this section of the Index by volume page number.

Public records, such as Governor Office executive orders, proclamations, declarations and terminations of emergencies, summaries of Attorney General Opinions, and county notices are also listed in this section of the Index as published by volume page number.

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**THIS INDEX INCLUDES OTHER NOTICE ACTIVITY THROUGH ISSUE 40 OF VOLUME 21.**

---

**Agency Guidance Documents, Notices of**

Health Services, Department of; pp. 22-23, 325-326, 647, 1495

Revenue, Department of; pp. 890-893, 2111

**Agency Ombudsman, Notices of**

Child Safety, Department of; pp. 466, 1054

Early Childhood Development and Health Board; p. 25

Game and Fish Commission; p. 142

Health Services, Department of; p. 498

Lottery Commission, State; p. 526

Psychologist Examiners, Board of; p. 25

Public Safety, Department of; p. 1502

Registrar of Contractors; p. 729

**County Notices Pursuant to A.R.S. § 49-112**

Maricopa County; p. 984, 1273-1302, 1302-1445, 2124-2261

Pima County; pp. 469-471, 852-853

Pinal County; pp. 422, 501-506, 802-808, 902-906, 1715-1745, 2083-2087

**Governor's Office**

Executive Order: pp. 26-27, 102-103, 143-144 (E.O. #2012-03); 163-164 (E.O. #2015-01); 216 (E.O. #2015-02); 552-553 (E.O. #2015-03); 760-761 (E.O. #2015-04); 975 (E.O. #2015-05)

Proclamations: pp. 615-621; 652-654; 693-696; 798-801; 847-851; 899-901; 976-983; 1059-1060; 1130-1134; 1203-1207; 1505-1507; 1653-1657; 1709-1714; 1794-1796; 2113; 2115-2123

**Governor's Regulatory Review Council**

Notices of Action Taken: pp. 193, 317, 479-480, 563-564, 771, 951, 1217, 1757-1758, 2100

**Oral Proceeding on Proposed Rulemaking, Notices of**

Child Safety, Department of; 1055, 1269, 1649, 1650, 1866

Optometry, Board of; p. 9, 1648

Psychologist Examiners, Board of; p. 1199

**Proposed Delegation Agreement, Notices of**

Environmental Quality, Department of; p. 267-269, 496, 894-895, 1124, 1496-1497, 1836

**Public Information, Notices of**

Agriculture, Department of - Livestock & Crop Conservation Grant Program; p. 896

Arizona Health Care Cost Containment System; p. 727, 840, 1051

Child Safety, Arizona Department of; p. 1051, 1267, 1646, 1838

Emergency and Military Affairs, Department of - Division of Military Affairs; p. 159, 1267

Environmental Quality, Department of; pp. 11-20, 77-87

Environmental Quality, Department of - Pesticides and Water Pollution Control; p. 687-689

Environmental Quality, Department of - Water Pollution Control; p. 1126

Environmental Quality, Department of - Water Quality Control; pp. 327-360, 840-842, 1838-1865

Environmental Quality, Department of - Water Quality Standards; p. 160

Health Services, Department of; pp. 21, 177-179, 241, 361-362, 413

Health Services, Department of - Health Programs Services; p. 611

Optometry, Board of; p. 11

Secretary of State, Office of the; p. 160-161

The Deaf and the Hard of Hearing; p. 1498

**Rulemaking Docket Opening, Notices of**

Arizona Health Care Cost Containment System - Administration; p. 839, 1791, 1835

Arizona Health Care Cost Containment System - Arizona Long-term Care System; p. 495

Barbers, Board of; p. 889

Board of Dental Examiners, State; p. 524, 1988-1989 Corporation Commission, Arizona - Transportation; p. 685

Cosmetology, Board of; p. 1122, 1790

Emergency and Military Affairs, Department of - Division of Emergency Management; p. 1198

Environmental Quality, Department of - Water Quality Standards; p. 1989

Fire, Building and Life Safety, Department of; p. 1123

Game and Fish Commission; p. 759, 1049

Insurance, Department of; p. 1494

Lottery Commission, Arizona State; pp. 972, 973

Physicians Medical Board, Naturopathic; p. 215

Public Safety, Department of - School Buses; p. 646

Retirement System Board, State; p. 726, 931, 1834, 1987, 2109

The Deaf and the Hard of Hearing, Commission for; p. 1493

Weights and Measures, Department of; p. 412

**Substantive Policy Statement, Notices of**

Environmental Quality, Department of; pp. 88-101, 137-139, 162, 307, 591, 612, 690

Financial Institutions, Department of; p. 1499

**Game and Fish Commission;** p. 141

**Greater Arizona Development Authority;** pp. 391-392

**Health Services, Department of;** pp. 140, 180-182, 242-249, 270-272, 416-419, 648, 843-844

**Insurance, Department of;** p. 591-593, 1500

**Nursing, Board of;** p. 136

**Psychologist Examiners, Board of;** p. 24

**Revenue, Department of;** p. 932-939

**State Real Estate, Department of;** p. 551, 1501

**Technical Registration, Board of;** pp. 414-415

**Water Infrastructure Finance Authority;** pp. 393-395

**Water Resources, Department of;** p. 183



**RULE EFFECTIVE DATES CALENDAR**

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

January		February		March		April		May		June	
Date Filed	Effective Date										
1/1	3/2	2/1	4/2	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/3	2/2	4/3	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/4	2/3	4/4	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/5	2/4	4/5	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/6	2/5	4/6	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/7	2/6	4/7	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/8	2/7	4/8	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/9	2/8	4/9	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/10	2/9	4/10	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/11	2/10	4/11	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/12	2/11	4/12	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/13	2/12	4/13	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/14	2/13	4/14	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/15	2/14	4/15	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/16	2/15	4/16	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/17	2/16	4/17	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/18	2/17	4/18	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/19	2/18	4/19	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/20	2/19	4/20	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/21	2/20	4/21	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/22	2/21	4/22	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/23	2/22	4/23	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/24	2/23	4/24	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/25	2/24	4/25	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/26	2/25	4/26	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/27	2/26	4/27	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/28	2/27	4/28	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/29	2/28	4/29	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/30			3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/31			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	4/1			3/31	5/30			5/31	7/30		



July		August		September		October		November		December	
Date Filed	Effective Date										
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1	12/2	1/31
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2	12/3	2/1
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3	12/4	2/2
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4	12/5	2/3
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5	12/6	2/4
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6	12/7	2/5
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7	12/8	2/6
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8	12/9	2/7
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9	12/10	2/8
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10	12/11	2/9
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11	12/12	2/10
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12	12/13	2/11
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13	12/14	2/12
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14	12/15	2/13
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15	12/16	2/14
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16	12/17	2/15
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17	12/18	2/16
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18	12/19	2/17
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19	12/20	2/18
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20	12/21	2/19
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21	12/22	2/20
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22	12/23	2/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23	12/24	2/22
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24	12/25	2/23
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25	12/26	2/24
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26	12/27	2/25
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27	12/28	2/26
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28	12/29	2/27
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29	12/30	2/28
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1



REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

Table with 3 columns: Deadline Date (paper only) Friday, 5:00 p.m., Register Publication Date, and Oral Proceeding may be scheduled on or after. Rows list dates from April 17, 2015 to October 30, 2015.



## GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor's Regulatory Review Council. Council meetings and *Register* deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by 5:00 p.m. of the deadline date. The Council's office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit [www.grrc.state.az.us](http://www.grrc.state.az.us).

DEADLINE TO BE PLACED ON COUNCIL AGENDA	FINAL MATERIALS DUE FROM AGENCIES	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
November 17, 2014	December 17, 2014	December 30, 2014	January 6, 2015
December 15, 2014	January 14, 2015	January 27, 2015	February 3, 2015
January 20, 2015	February 11, 2015	February 24, 2015	March 3, 2015
February 17, 2015	March 18, 2015	March 31, 2015	April 7, 2015
March 16, 2015	April 15, 2015	April 28, 2015	May 5, 2015
April 20, 2015	May 13, 2015	May 28, 2015	June 2, 2015
May 18, 2015	June 17, 2015	June 30, 2015	July 7, 2015
June 15, 2015	July 15, 2015	July 28, 2015	August 4, 2015
July 20, 2015	August 12, 2015	August 25, 2015	September 1, 2015
August 17, 2015	September 16, 2015	September 29, 2015	October 6, 2015
September 21, 2015	October 14, 2015	October 27, 2015	November 3, 2015
October 19, 2015	November 12, 2015	November 24, 2015	December 1, 2015
November 16, 2015	December 16, 2015	December 29, 2015	January 5, 2016