





review of personnel and funding issues relating to the administration of structural pest management regulation within ADA and (4) statutory changes necessary to accomplish the future structural pest management program. Between August 2011 and October 2012, the Task Force and its subcommittees held over eighteen public meetings to review the laws and regulations governing structural pest management and to develop proposed statutes and rules. The Task Force developed the proposed statutes and rules on parallel paths to help ensure appropriate regulatory oversight.

As the Task Force reviewed the current statutes and rules, they particularly focused on developing a fair regulatory package that would be less burdensome on the regulated industry while continuing to provide protections for the public. One of the Task Force's recommendations was to shift regulation of pesticide applications by golf courses from OPM to ADA. As part of that recommendation, the Task Force approved specific changes to A.R.S. § 3-363 and ADA's rules that would be applicable to golf course regulation.

The Task Force submitted its recommendations for changing the OPM and ADA statutes and rules to the Governor, the President of the Senate, and the Speaker of the House in November 2012. Although the Task Force knew that the Legislature was only responsible for changing statutes, it wanted to make the Legislature aware of its recommended rule changes as well so that the Legislature would be aware of the overall effect of the recommended statutory changes. The Task Force's recommendations on statutory changes became SB1290 (2013) (OPM statutes) and SB1143 (2013) (ADA statutes), albeit with a few changes made by the Legislature. Both bills passed and were signed into law. See Laws 2013, Ch. 125 and Laws 2013, Ch. 64.

This rulemaking adopts the changes to the ADA rules recommended by the Task Force, as submitted to the Governor, President of the Senate, and Speaker of the House in November 2012. This rulemaking also updates all references to the Office of Pest Management instead of the former Structural Pest Control Commission. This rulemaking was already adopted under a rulemaking exemption, but in order to make the fees established by that rulemaking permanent, ADA is proceeding with regular rulemaking as well.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did 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

**8. 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

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

The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

This rulemaking is not designed to change harmful conduct. This rulemaking makes permanent certain fees for licensing services that were established under a previous exempt rulemaking. 19 A.A.R. 3130, October 11, 2013.

The estimated change in frequency of the targeted conduct expected from the rule change:

There will be no change in the frequency of the conduct from the rule change. The rules will instead continue the conduct established under previous exempt rulemaking.

Brief summary of the information included in the economic, small business, and consumer impact statement:

Because the only practical effect of this rulemaking is that it makes permanent the fees for licensing services, there is very little economic, small business, or consumer impact, and the impact that will occur will be the same as the impact under the previous exempt rulemaking.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

The primary purpose of this rulemaking is to make permanent the fees in R3-3-208 that were established by exempt rulemaking. 19 A.A.R. 3130. Pursuant to A.R.S. § 41-1008(E), fees established or increased by exempt rulemaking expire after two years. Because the Department was required to amend R3-3-208 to make the fees permanent, the Department chose to allow public comments on the entire exempt rulemaking. Thus, it included all the rules amended by the previous exempt rulemaking in its proposed rulemaking except subsection R3-3-208(E) which was unintentionally omitted. See R3-3-208(E) ("Golf restricted use pesticide certification allows a golf applicator to use or apply restricted use pesticides to an ornamental and turf area of a golf course"). There was no intent to propose any changes to the 19 A.A.R. 3130 exempt rulemaking, and since the Department did not receive any comments on the proposed rulemaking and all the rules except R3-3-208 continue to be in effect, R3-3-208 is the only rule included in the final rulemaking.



**11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

No comments were received

**12. 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:**

The Department received permission to conduct rulemaking from the Governor’s Office in compliance with Executive Order 2015-01. Pursuant to A.R.S. § 3-104(F), the ADA Advisory Council approved this rulemaking.

**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:**

R3-3-208 requires pesticide applicators to obtain certification. A general permit (i.e. certification) is not used in R3-3-208 because the issuance of a general permit would result in additional regulatory requirements being placed on the applicant. Every person who desires applicator certification must pass a core exam. A person who desires commercial applicator certification must additionally pass a category specific exam, such as agricultural pest control or seed treatment. “For example, practical knowledge of drift problems should be required of agricultural applicators but not of seed treatment applicators. The latter, however, should be particularly knowledgeable of the hazards of the misuse of treated seed and the necessary precautionary techniques.” 40 CFR 171.4(c). There are eight categories of commercial certification plus a separate category for private fumigation certification. Under a general permit, an applicant would have to pass the core exam and all nine category specific tests (see 40 CFR 171.4 (requiring category specific exams)) whereas now private applicator certification does not require passing any category specific test and commercial applicator certification can be issued by passing one category specific exam.

**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:**

Certification of applicators who use restricted use pesticides, which R3-3-208 relates to in part, is subject to 40 CFR 171, particularly 40 CFR 171.4 and 171.5. A State may certify applicators of restricted use pesticides by obtaining approval from EPA of a State plan for that purpose. See 40 CFR 171.7. The standards of certification in the State plan must “conform and be at least equal to those prescribed” in 40 CFR 171.4(a) and 171.5(a). See also 40 CFR 171.7(e)(1)(i)(C) and (e)(1)(ii)(B). For commercial applicators, that means passing a written core examination and written category and subcategory specific examinations; this is what R3-3-208 requires. For private applicators, that means demonstrating competency in the certification standards by a method adopted by the State, which could be by written exam, oral exam, or another approved method. Arizona’s approved State plan calls for demonstrating competency by written exam, and that is what R3-3-208 requires. ADA administers two written exams for private applicators: a general exam for all private applicators and a separate fumigation exam only for applicators who wish to use fumigants. Both exams test the applicant’s knowledge in the same five areas identified in 40 CFR 171.5(a)(1)-(5), with the difference between the exams being that the general exam covers pesticides other than fumigants and the fumigation exam is specific to fumigants. Thus, the knowledge required by the private applicator exams conforms to federal law. State plans must also include “provisions to ensure that certified applicators continue to meet the requirements of changing technology and to assure a continuing level of competency and ability to use pesticides safely and properly.” 40 CFR 171.8(a)(2). The continuing education requirements in R3-3-208 serve this purpose. See also A.R.S. § 3-363(5) (specifically authorizing the Department to adopt continuing education requirements). Accordingly, R3-3-208 is not more stringent than a corresponding federal law.

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

No

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

None

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable

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

**TITLE 3. AGRICULTURE**

**CHAPTER 3. DEPARTMENT OF AGRICULTURE  
ENVIRONMENTAL SERVICES DIVISION**



## ARTICLE 2. PERMITS, LICENSES, AND CERTIFICATION

Section  
R3-3-208. Applicator Certification; Examination; Fee; Renewal

## ARTICLE 2. PERMITS, LICENSES, AND CERTIFICATION

**R3-3-208. Applicator Certification; Examination; Fee; Renewal**

- A. An individual shall not act as a private applicator, golf applicator, or commercial applicator unless the individual is certified by the Department.
- B. Application. An individual applying for either commercial, golf, or private applicator certification shall pay ~~a \$50~~ the applicable fee and submit a completed application to the Department containing the following information on a form obtained from the Department:
1. The applicant's name, address, e-mail address if applicable, daytime telephone number, Social Security number, and signature;
  2. Date of the application;
  3. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the applicant's employer, if applicable;
  4. Whether the application is for a commercial, golf, or private applicator certification;
  5. If applicable, an indication the applicant seeks private applicator fumigation certification;
  6. If applicable, an indication the applicant seeks golf applicator aquatic certification;
  - ~~6-7.~~ For commercial certification, the categories in which the applicant seeks to be certified;
  - ~~7-8.~~ Whether the applicant has had a similar certification revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation; and
  - ~~8-9.~~ Certification renewal period.
- C. Private applicator fumigation certification.
1. Fumigation certification requires certification as a private applicator, a golf applicator, or a commercial applicator.
  2. Fumigation certification allows a private applicator or a commercial applicator acting as a private applicator to use, apply, or supervise the use or application of a fumigant to an on-farm raw agricultural commodity or on-farm burrowing rodent problem.
  3. Fumigation certification allows a golf applicator to use and apply a fumigant to a golf course burrowing rodent problem.
- D. Golf applicator aquatic certification allows a golf applicator to use or apply an aquatic pesticide to a body of water on a golf course to control an aquatic pest problem.
- E. Golf restricted use pesticide certification allows a golf applicator to use or apply restricted use pesticides to an ornamental and turf area of a golf course.
- ~~D-F.~~ Examinations. The Department shall administer examinations by appointment at every Environmental Services Division office. An applicant shall achieve a passing score of 75 percent in the applicable subject area in order to receive initial certification.
1. Commercial applicator certification (PUC). In addition to the core examination required by R3-3-202, an applicant shall demonstrate knowledge and understanding of the subjects listed in Appendix A, subsection (B) for each commercial certification category sought.
  2. Commercial certification categories. An individual may apply for commercial applicator certification in any of the following categories:
    - a. Agricultural pest control;
    - b. Forest pest control;
    - c. Seed-treatment;
    - d. Aquatic pest control;
    - e. Right-of-way pest control;
    - f. Public health pest control;
    - g. Regulatory pest control: M-44 or rodent, if a government employee; or
    - h. Demonstration and research pest control.
  3. Private applicator (PUP) and golf applicator (PUG) certification (~~PUP~~). An applicant shall demonstrate knowledge and understanding of the core examination subjects listed in R3-3-202.
  4. Fumigation certification. An applicant seeking private applicator fumigation certification shall also pass a separate fumigation examination.
  5. Aquatic certification. An applicant seeking aquatic certification shall also pass a separate aquatics examination.
  - ~~5-6.~~ An individual who fails an examination may retake it no more than three times in a 12-month period, and shall not retake an examination until at least seven days have elapsed from the date of the last examination.
- G. Fee.
1. An applicant for private or commercial certification shall pay a \$50 fee per year of certification.
  2. An applicant for golf certification shall pay a \$100 fee per year of certification.



**F.H.** Applicator certification is not transferable, expires on December 31, and is:

1. Issued for the remainder of the calendar year as an initial certification;
2. Renewed for one or two years, depending on the renewal period selected by the applicant; and
3. Renewed for all categories of certification for the same renewal period.

**F.I.** Renewal.

1. An applicant for renewal of an applicator certification shall select a one or two-year renewal period.
2. An applicant shall submit the completed application accompanied by ~~a \$50~~ the applicable fee for a one-year renewal or ~~\$100~~ double the fee for a two-year renewal.
3. CEU requirements.
  - a. The Department shall not renew a private applicator or golf applicator certification unless, prior to the expiration of the current certification, the applicator completes three CEUs for each year of the renewal period.
  - b. The Department shall not renew a commercial applicator certification unless, prior to expiration of the current certification, the applicator completes six CEUs for each year of the renewal period.
  - c. The Department shall not renew a fumigation certification unless, prior to the expiration of the current certification, the applicant qualifies to renew the applicant's private, golf, or commercial applicator certification under this subsection and completes three additional CEUs per year of the renewal period.
  - d. The Department shall not renew an aquatic certification unless, prior to the expiration of the current certification, the applicant qualifies to renew the applicant's golf applicator certification under this subsection and completes three additional CEUs per year of the renewal period. The three additional CEUs per year may also be used to simultaneously satisfy the three additional CEUs per year requirement in subsection (H)(3)(c).
  - ~~e.~~ An applicator shall complete CEU credit while the current certification period is in effect. CEU credits earned in excess of the requirements do not carry forward for use in subsequent renewals.
  - ~~f.~~ To obtain credit, the applicant shall provide the Department with documentation of completion of the CEU course.
  - ~~g.~~ The CEU requirements are not applicable to an individual renewing an initial certification issued between October 1 and December 31.
4. Examination exception. An applicator who fails to complete the CEUs required for renewal may renew a certification, prior to expiration, for one year by submitting the completed application accompanied by ~~a \$50~~ the applicable fee and retaking and passing the applicable certification examination prescribed in this Section.

**G.J.** Renewal; expired certification.

1. An applicant may renew an expired certification without retaking the written examinations provided the applicant:
  - a. Has satisfied the CEU requirements,
  - b. Submits a completed application and fee within 30 days after the expiration date, and
  - c. Does not provide any pesticide-related service from the date the certification expired until the date the renewal is effective.
2. All other applicants for renewal shall complete the requirements for initial certification, including retaking and passing the written examinations prescribed in this Section.

## NOTICE OF FINAL RULEMAKING

### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

[R16-26]

#### PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R4-11-201	Amend
R4-11-202	Amend
R4-11-203	Amend
R4-11-204	Amend
R4-11-301	Amend
R4-11-302	Repeal
R4-11-303	Amend
R4-11-304	Amend
R4-11-305	Amend
<b><u>2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):</u></b>	
Authorizing statute: A.R.S. § 32-1207	



Implementing statute: A.R.S. §§ 32-1232, 32-1233, 32-1234(A) and (E), 32-1240, 32-1284(A) and (B), 32-1285, and 32-1292.01

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

April 3, 2016

**4. 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. 1988, September 18, 2015

Notice of Proposed Rulemaking: 21 A.A.R. 1887, September 18, 2015

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Elaine Hugunin, Executive Director

Address: State Board of Dental Examiners  
4205 N. 7th Ave., Suite 300  
Phoenix, AZ 85013

Telephone: (602) 542-4493

Fax: (602) 242-1445

E-mail: elaine.hugunin@azdentalboard.us

Website: www.dentalboard.az.gov

**6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Five-Year rule review identified necessary amendments to AAC Title 4, Chapter 11, Article 2 Licensure by Credential, Article 3 Examinations Licensing Qualifications, Application and Renewal, and Time-Frames. The Board has proposed the following changes to AAC Articles listed above:

- Repeals the consideration of an application for licensure by credential at the next scheduled Board meeting in AAC R4-11-201. When licensure by credential was enacted, the Board reviewed every application. The Board has delegated the issuance of licenses to the Executive Director. Now the Board reviews applications with disclosures.
- For consistency, adds United States territory and District of Columbia throughout Article 2.
- Repeals R4-11-201(A)(2)(c) which required a detailed report prepared by a Board recognized organization (PBIS). The Committee agreed that it was impossible to compare an older exam with the present day Western Regional Examining Board (WREB) exam. The Board began reviewing comparison reports in 2003. Since that time, the Board not denied licensure based on the comparison report.
- Amend R4-11-203(A) & (B) Dental Hygienist Licensure by Credential; Application to mirror R4-11-202(A) & (B) Dental Licensure by Credential; Application. The repealed text in R4-11-203(A) currently exists in Arizona Revised Statutes § 32-1284.
- Adds accepting a verified third-party transcript provider for dental, dental hygiene or dentist transcripts to R4-11-301(A)(3). At the April 11, 2014 meeting, the Board voted to open a docket for this amendment.
- Amendment to R4-11-301(A)(4) updates language regarding proof of dental hygiene clinical examination taken within the last five years to match A.R.S. § 32-1285, amended in 2013.
- Amend R4-11-301(A)(6) to require Healthcare Provider CPR for applicants. Healthcare Provider CPR is required to renew a license.
- Amend R4-11-301(A)(7) to allow license verifications from other states to be accepted without being sent directly to the Board. More and more states are using electronic methods of transmitting verifications of licensure. Indiana was the first state to send digital verifications and two more states have recently contacted the Board to set up retrieval of their digital verifications.
- Amends R4-11-301(A)(9) to clarify that dentist applicants need a Health Integrity and Protection Data Bank report.
- Repeals R4-11-302 – Determination of Successful Completion of Licensure Examinations. The Board no longer gives examinations.
- Adds Mobile Dental Facility and Portable Dental Unit Permits to R4-11-303 License Time-frame Rules.
- Updates R4-11-304 to clarify Radiography Certification by Credential.
- Amendment to R4-11-305 updates names of anesthesia and sedation permits.

The rule will include format, style, and grammar necessary to comply with the current rules of the Secretary of State.

The Board believes that approval of these rules will benefit the public health and safety by clearly establishing the procedures for licensure by credential, examinations, licensing qualifications, application and renewal, and time-



frames.

- 7. **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:**  
The agency did not review or rely on any study relevant to the rule.
- 8. **A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. **The summary of the economic, small business, and consumer impact:**  
The amended rule will impact the Board, licensees and the public.  
The amended rule's impact on established Board of Dental Examiners' procedures and office related costs is minimal. The rule's net economic impact for the Board is minimal.  
The Board estimates the amended rule will have minimal economic impact on licensees. The cost to the individual or entity is minimal.  
The amended rule has no economic impact on the public.  
The Board, licensees, and the public benefit from rules that are clear, concise, and understandable. The Board believes that approval of these rules will benefit the public health and safety by clearly establishing the procedures for licensure by credential, examinations, licensing qualifications, application and renewal, and time-frames.
- 10. **A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**  
There are no substantial changes in the final rules from the proposed rules. In R4-11-203, we need to strike the "A" at the beginning of the text, because the "B" text is being deleted, and the "; and" after the word "Article" needs to be stricken, as it is not necessary without the "B" subsection. In R4-11-303(E)(5) and R4-11-305(E)(5), the substantive review time-frame extension period exceeds the statutory allowance of 25 percent of the overall time-frame period in A.R.S. § 41-1075(B). The time-frame extensions are changed to 28 days and 36 days respectively. Those non-substantive changes have been made in the Notice of Final Rulemaking. Minor changes to style, format, grammar, and punctuation were made as requested by GRRC staff.
- 11. **An agency's summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:**  
A public hearing was held October 19, 2015. No one attended the hearing and no written comments were received.
- 12. **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:**  
Not applicable
  - 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:**  
The rules require the Board to issue a license or certificate as specified under A.R.S. §§ 32-1234, 32-1240, and 32-1292.01. This license or certificate arguably falls within the definition of general permit in A.R.S. §§ 41-1001 and 41-1037. The Board chooses to issue the specific license or certificate as required by our statutes.
  - 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 agency has determined that there is no corresponding federal law.
  - c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**  
No
- 13. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**  
None
- 14. **Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**  
No
- 15. **The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS



## ARTICLE 2. LICENSURE BY CREDENTIAL

Section	
R4-11-201.	Clinical Examination: Requirements
R4-11-202.	Dental Licensure by Credential: Application
R4-11-203.	Dental Hygienist Licensure by Credential: Application
R4-11-204.	Dental Assistant Radiography Certification by Credential

## ARTICLE 3. EXAMINATIONS, LICENSING QUALIFICATIONS, APPLICATION AND RENEWAL, TIME-FRAMES

Section	
R4-11-301.	Application
R4-11-302.	<del>Determination of Successful Completion of Licensure Examination</del>
R4-11-303.	Application Processing Procedures: Issuance, Denial, and Renewal of Dental Licenses, Restricted Permits, Dental Hygiene Licenses, Dental Consultant Licenses, Denturist Certificates, Drug or Device Dispensing Registrations, <del>and Business Entity Registration, and Mobile Dental Facility and Portable Dental Unit Permits</del>
R4-11-304.	Application Processing Procedures: Issuance and Denial of Dental Assistant Certificates <u>Radiography Certification by Credential</u>
R4-11-305.	Application Processing Procedures: Issuance, Denial, and Renewal of General Anesthesia and <del>Semi-conscious</del> Deep Sedation Permits, <del>Conscious</del> <u>Parenteral</u> Sedation Permits, <del>and Oral Conscious</del> Sedation Permits, <u>and Permit to Employ a Physician Anesthesiologist or CRNA</u>

## ARTICLE 2. LICENSURE BY CREDENTIAL

### R4-11-201. Clinical Examination; Requirements

- A. ~~The Board shall:~~
- ~~1. Consider an application for licensure at the next scheduled Board meeting after the application is administratively complete.~~
  2. If an applicant is applying under A.R.S. §§ 32-1240(A) or 32-1292.01(A), the Board shall ensure that the applicant has passed the clinical examination of another state, United States territory, District of Columbia or a regional testing agency, that maintains a standard of licensure determined by the Board to be substantially equivalent to that of Arizona based on review of any one of the following forms of evidence that are satisfactory to the Board Satisfactory completion of the clinical examination may be demonstrated by one of the following:
    - a1. Certified documentation, sent directly from another state, United States territory, District of Columbia or a regional testing agency, that shows that confirms successful completion of the clinical examination or multiple examinations the applicant passed are Board approved and administered by the state, United States territory, District of Columbia or regional testing agency. The certified documentation shall contain the name of the applicant, date of examination or examinations, total score for each examination, name of any separately scored component of the examination, and separate scores for each component and proof of a passing score; or
    - b2. Certified documentation sent directly from another state, United States territory or District of Columbia dental board that shows the applicant passed that state's, United States territory's or District of Columbia's clinical examination before that state's, United States territory's or District of Columbia's participation in a regional examination. The certified documentation shall contain the name of applicant, date of examination or examinations, total score for each examination, name of any separately scored component of the examination and separate scores for each component and proof of a passing score; or
    - e. A detailed report prepared by a Board-recognized organization capable of assessing whether a clinical examination submitted maintains all of the following clinical examination elements in Arizona's standard of licensure:
      - i. ~~The purposes, interpretations, and uses of the clinical examination are clearly stated in order to make appropriate pass or fail decisions.~~
      - ii. ~~The knowledge, skills, and abilities that are important in the clinical practice of dentistry or dental hygiene are identified.~~
      - iii. ~~Examination specifications provide a detailed description of the content of the examination and specify the scorable tasks that are used to evaluate each discipline. The specifications should include scoring weights associated with each content area.~~
      - iv. ~~Policies and procedures are defined and published to standardize examination administration. This administrative protocol addresses legal issues and fair testing practices.~~
      - v. ~~The state or testing agency provides candidates with clear and comprehensive information about the examination program, including application requirements, examination content, performance expectations, reporting of results, and an appeals process.~~



- ~~vi. Policies for examiner selection and retention are defined and published.~~
- ~~vii. An examiner training program is established and implemented. The program introduces examiners to appropriate applications of the agency's evaluation criteria and assesses their ability to apply the criteria. The methodology of examiner standardization and its results are documented.~~
- ~~viii. Post examination analyses are routinely conducted. Reliability and other factors affecting validity are investigated.~~
- ~~ix. A program is developed and implemented for on-going evaluation of examiner ratings. The examining agency provides examiners with feedback on their individual rating performance. Policies and procedures are defined for remediation or discontinuance of examiners based on analyses of their performance.~~

~~B. An applicant shall meet the licensure requirements in R4-11-301 and R4-11-303. The applicant is exempt from complying with R4-11-301(A)(4)~~

**R4-11-202. Dental Licensure by Credential; Application**

- A. A dentist applying under A.R.S. § 32-1240(A) shall comply with all other applicable requirements in A.R.S. Title 32, Chapter 11 and this Article.
- B. A dentist applying under A.R.S. § 32-1240(A)(1) shall:
  1. Have a current dental license in another state, territory or district of the United States;
  2. Submit a written affidavit affirming that the dentist has practiced dentistry for a minimum of 5000 hours during the five years immediately before applying for licensure by credential. For purposes of this subsection, dental practice includes experience as a dental educator at a dental program accredited by the American Dental Association Commission on Dental Accreditation or employment as a dentist in a public health setting;
  3. Submit a written affidavit affirming that the applicant has complied with the continuing dental education requirement of the state in which the applicant is currently licensed; and
  4. Provide evidence regarding the clinical examination by complying with one of the subsections in ~~R4-11-201(A)(2)~~ R4-11-201(A)(1).
- C. A dentist applying under A.R.S. § 32-1240(A)(2) shall submit certified documentation sent directly from the applicable ~~state, United States territory, District of Columbia or~~ regional testing agency to the Board that contains the name of applicant, date of examination or examinations, ~~total score for each examination, name of any separately scored component of the examination and scores for each component and proof of a passing score.~~
- D. For any application submitted under A.R.S. § 32-1240(A), the Board may request additional clarifying evidence required under the applicable subsection in ~~R4-11-201(A)(2)~~ R4-11-201(A)(1).
- E. An applicant for dental licensure by credential shall pay the fee prescribed in A.R.S. § 32-1240, except the fee is reduced by 50% for applicants who will be employed or working under contract in:
  1. Underserved areas, such as declared or eligible Health Professional Shortage Areas (HPSAs); or
  2. Other facilities caring for underserved populations as recognized by the Arizona Department of Health Services and approved by the Board.
- F. An applicant for dental licensure by credential who works in areas or facilities described in subsection (E) shall:
  1. Commit to a three-year, exclusive service period,
  2. File a copy of a contract or employment verification statement with the Board, and
  3. As a licensee, submit an annual contract or employment verification statement to the Board by December 31 of each year.
- G. A licensee's failure to comply with the requirements in subsection (F) is considered unprofessional conduct and may result in disciplinary action based on the circumstances of the case.

**R4-11-203. Dental Hygienist Licensure by Credential; Application**

- A. A dental hygienist applying under A.R.S. § 32-1292.01(A) shall:
  - ~~1. Comply with all other applicable requirements in A.R.S. Title 32, Chapter 11 and this Article; and~~
  - ~~2. Not be the subject of final or pending disciplinary action in any state, territory, or district of the United States or have resigned or surrendered a license while under investigation by or while disciplinary action was pending before any professional licensing agency.~~
- ~~B. The Board shall:~~
  - ~~1. Suspend an application for licensure by credential if disciplinary action by a dental regulatory agency against the applicant is currently pending in another jurisdiction, and~~
  - ~~2. Not issue or deny licensure by credential to the applicant until the matter is resolved.~~
- ~~C.~~ B. A dental hygienist applying under A.R.S. § 32-1292.01(A)(1) shall:
  1. Have a current dental hygienist license in another state, territory, or district of the United States;
  2. Submit a written affidavit affirming that the applicant has practiced as a dental hygienist for a minimum of 1000 hours during the two years immediately before applying for licensure by credential. For purposes of this subsection, dental hygienist practice includes experience as a dental hygienist educator at a dental program accredited by the American Dental Association Commission on Dental Accreditation or employment as a dental hygienist in a public health setting;
  3. Submit a written affidavit affirming that the applicant has complied with the continuing dental hygienist education requirement of the state in which the applicant is currently licensed; and



4. Provide evidence regarding the clinical examination by complying with one of the subsections in ~~R4-11-201(A)(2)~~ R4-11-201(A)(1).
- ~~D.C.~~ A dental hygienist applying under A.R.S. § 32-1292.01(A)(2) shall submit certified documentation sent directly from the applicable state, United States territory, District of Columbia or regional testing agency to the Board that contains the name of applicant, date of examination or examinations, ~~total score for the examination, name of any separately scored component of the examination and separate scores for each component and proof of a passing score.~~
- ~~E.D.~~ For any application submitted under A.R.S. § 32-1292.01(A), the Board may request additional clarifying evidence as required under the applicable subsection in ~~R4-11-201(A)(2)~~ R4-11-201(A).
- ~~F.E.~~ An applicant for dental hygienist licensure by credential shall pay the fee prescribed in A.R.S. § 32-1292.01, except the fee is reduced by 50% for applicants who will be employed or working under contract in:
1. Underserved areas such as declared or eligible Health Professional Shortage Areas (HPSAs); or
  2. Other facilities caring for underserved populations, as recognized by the Arizona Department of Health Services and approved by the Board.
- ~~G.F.~~ An applicant for dental hygienist licensure by credential who works in areas or facilities described in subsection ~~(F)~~ (E) shall:
1. Commit to a three-year exclusive service period,
  2. File a copy of a contract or employment verification statement with the Board, and
  3. As a licensee, submit an annual contract or employment verification statement to the Board by December 31 of each year.
- ~~H.G.~~ A licensee's failure to comply with the requirements in ~~R4-11-203(G)~~ R4-11-203(F) is considered unprofessional conduct and may result in disciplinary action based on the circumstances of the case.

#### **R4-11-204. Dental Assistant Radiography Certification by Credential**

Eligibility. To be eligible for dental assistant radiography certification by credential, an applicant shall have a current certificate or other form of approval for taking dental radiographs, issued by a professional licensing agency in another ~~jurisdiction of the United States~~ state, United States territory or the District of Columbia that required successful completion of ~~a written and clinical dental radiography examinations~~ examination ~~or a single dental radiography examination with written and clinical components.~~

### **ARTICLE 3. EXAMINATIONS, LICENSING QUALIFICATIONS, APPLICATION AND RENEWAL, TIME-FRAMES**

#### **R4-11-301. Application**

- A. An applicant for licensure or certification shall provide the following information and documentation ~~on a form provided by the Board:~~
1. A sworn statement of the applicant's qualifications for the license or certificate on a form provided by the Board;
  2. A photograph of the applicant that is no more than 6 months old;
  3. An official, sealed transcript sent directly to the Board from ~~either:~~
    - a. ~~the~~ The applicant's dental, dental hygiene, or denturist school ~~to the Board;~~ or
    - b. A verified third-party transcript provider.
  4. Except for a dental consultant license applicant, dental and dental hygiene license applicants provide proof of successfully completing a clinical examination by submitting:
    - a. If applying for dental licensure by examination, a copy of the certificate or score card from the Western Regional Examining Board, indicating that the applicant passed the Western Regional Examining Board examination within the five years immediately before the date the application is filed with the Board; ~~or~~
    - b. ~~If applying for licensure by credential, certified documentation sent directly from the applicable testing agency or state to the Board containing the name of the applicant, date of examination or examinations, total score for each examination, name of any separately scored component of the examination, and scores for each component~~ If applying for dental hygiene licensure by examination, a copy of the certificate or scorecard from the Western Regional Examining Board or an Arizona Board-approved clinical examination administered by a state, United States territory, District of Columbia or regional testing agency. The certificate or scorecard must indicate that the applicant passed the examination within the five years immediately before the date the application is filed with the Board; or
    - c. If applying for licensure by credential, certified documentation sent directly from the applicable state, United States territory, District of Columbia or regional testing agency to the Board containing the name of the applicant, date of examination or examinations and proof of a passing score;
  5. Except for a dental consultant license applicant as provided in A.R.S. § 32-1234(A)(7), dental and dental hygiene license applicants must have an official score card sent directly from the National Board examination to the Board;
  6. A copy showing the expiration date of the applicant's current cardiopulmonary resuscitation healthcare provider level certificate from the American Red Cross, the American Heart Association, or another certifying agency that follows the same procedures, standards, and techniques for CPR training and certification as the American Red Cross or American Heart Association;
  7. A license or certification verification from any other jurisdiction in which an applicant is licensed or certified, sent directly from that jurisdiction to the Board. If the license verification cannot be sent directly to the Board from the



other jurisdiction, the applicant must submit a written affidavit affirming that the license verification submitted was issued by the other jurisdiction;

- 8. If ~~the a dental or dental hygiene~~ applicant has been licensed in another jurisdiction for more than six months, a copy of the self-inquiry from the National Practitioner Data Bank that is no more than ~~6 months~~ 30 days old;
- 9. ~~If the applicant has never been licensed to practice in any jurisdiction or has been practicing for less than six months, a letter of endorsement from the dental, dental hygiene, or denturist school from which the applicant graduated that confirms the applicant's graduation~~ If a denturist applicant has been certified in another jurisdiction for more than six months, a copy of the self-inquiry from the Health Integrity and Protection Data Bank that is no more than 30 days old;
- 10. If the applicant is in the military or employed by the United States government, a letter of endorsement from the applicant's commanding officer or supervisor that confirms the applicant's military service or United States government employment record; and
- 11. The jurisprudence examination fee.

B. The Board may request that an applicant provide:

- 1. An official copy of the applicant's dental, dental hygiene, or denturist school diploma,
- 2. A copy of a certified document that indicates the reason for a name change if the applicant's application contains different names,
- 3. Written verification of the applicant's work history, and
- 4. A copy of a high school diploma or equivalent certificate.

C. An applicant shall pass the Arizona jurisprudence examination with a minimum score of 75%.

**R4-11-302. ~~Determination of Successful Completion of Licensure Examination~~ Repealed**

~~To determine the minimum passing grade in all examinations conducted by the Board:~~

- ~~1. The Board may require a composite average of 75% for successful completion of the examination; or~~
- ~~2. The Board may use a performance rating of 0 to 6 to evaluate each procedure performed and require a specific point total to achieve successful completion.~~
- ~~3. The Board shall vote, at least 30 days before the examination, to determine which scoring system is to be used. For the percentage system the Board shall also determine the relative values of the individual procedures tested. For the proficiency evaluation the Board shall determine the minimum point total required to successfully complete the examination.~~

**R4-11-303. Application Processing Procedures: Issuance, Denial, and Renewal of Dental Licenses, Restricted Permits, Dental Hygiene Licenses, Dental Consultant Licenses, Denturist Certificates, Drug or Device Dispensing Registrations, and Business Entity Registration and Mobile Dental Facility and Portable Dental Unit Permits**

- A. The Board office shall complete an administrative completeness review within 24 days of the date of receipt of an application for a license, certificate, permit, or registration.
  - 1. Within 14 calendar days of receiving an initial or renewal application for a dental license, restricted permit, dental hygiene license, dental consultant license, denturist certificate, drug dispensing registration, ~~or~~ business entity registration, mobile dental facility or portable dental unit permit, the Board office shall notify the applicant, in writing, whether the application package is complete or incomplete.
  - 2. If the application package is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 24-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
  - 3. If the Board office does not provide the applicant with notice regarding administrative completeness, the application package shall be deemed complete 24 days after receipt by the Board office.
- B. An applicant with an incomplete application package shall submit all missing information within 60 calendar days of service of the notice of incompleteness.
- C. Upon receipt of all missing information, the Board office shall notify the applicant, in writing, within 10 calendar days, that the application package is complete. If an applicant fails to submit a complete application package within the time allowed in subsection (B), the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license, certificate, permit, or registration shall apply again as required in R4-11-301.
- D. The Board shall not approve or deny an application until the applicant has fully complied with the requirements of A.A.C. Title 4, Chapter 11, Article 3.
- E. The Board shall complete a substantive review of the applicant's qualifications in no more than 90 calendar days from the date on which the administrative completeness review of an application package is complete.
  - 1. If the Board finds an applicant to be eligible for a license, certificate, permit, or registration and grants the license, certificate, permit, or registration, the Board office shall notify the applicant in writing.
  - 2. If the Board finds an applicant to be ineligible for a license, certificate, permit, or registration, the Board office shall issue a written notice of denial to the applicant that includes:
    - a. Each reason for the denial, with citations to the statutes or rules on which the denial is based;



- b. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
  - c. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
  - d. The name and telephone number of an agency contact person who can answer questions regarding the application process.
3. If the Board finds deficiencies during the substantive review of an application package, the Board office may issue a comprehensive written request to the applicant for additional documentation. An additional supplemental written request for information may be issued upon mutual agreement between the Board or Board office and the applicant.
  4. The 90-day time-frame for a substantive review of an applicant's qualifications is suspended from the date of a written request for additional documentation until the date that all documentation is received. The applicant shall submit the additional documentation before the next regularly scheduled Board meeting.
  5. If the applicant and the Board office mutually agree in writing, the 90-day substantive review time-frame may be extended once for no more than ~~45~~28 days.
- F.** The following time-frames apply for an initial or renewal application governed by this Section:
1. Administrative completeness review time-frame: 24 calendar days.
  2. Substantive review time-frame: 90 calendar days.
  3. Overall time-frame: 114 calendar days.
- G.** An applicant whose license is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, may seek judicial review pursuant to A.R.S. Title 41, Chapter 6, Article 10, and A.R.S. Title 12, Chapter 7, Article 6.

**R4-11-304. Application Processing Procedures: Issuance and Denial of Dental Assistant Certificates Radiography Certification by Credential**

- A.** Within 14 calendar days of receiving an application from an applicant for a dental assistant ~~certificate~~ radiography certification by credential, the Board or its designee shall notify the applicant, in writing, that the application package is complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.
  - B.** An applicant with an incomplete application package shall supply the missing information within 60 calendar days from the date of the notice. If the applicant fails to do so, an applicant shall begin the application process anew.
  - C.** Upon receipt of all missing information, within 10 calendar days, the Board or its designee shall notify the applicant, in writing, that the application is complete.
  - D.** The Board or its designee shall not process an application until the applicant has fully complied with the requirements of this Article.
  - E.** The Board or its designee shall notify an applicant, in writing, whether the certificate is granted or denied, no later than 90 calendar days after the date of the notice advising the applicant that the package is complete.
  - ~~**F.** The Board or its designee shall deny certification if an applicant fails the clinical or written portions of the Dental Assisting National Board examination.~~
  - GE.** The notice of denial shall inform the applicant of the following:
    1. The reason for the denial, with a citation to the statute or rule which requires the applicant to pass the examination;
    2. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
    3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
    4. The name and telephone number of an agency contact person or a designee who can answer questions regarding the application process.
- HG.** The following time-frames apply for certificate applications governed by this Section:
1. Administrative completeness review time-frame: 24 calendar days.
  2. Substantive review time-frame: 90 calendar days.
  3. Overall time-frame: 114 calendar days.
- HH.** An applicant whose certificate is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, may seek judicial review pursuant to A.R.S. Title 41, Chapter 6, Article 10, and A.R.S. Title 12, Chapter 7, Article 6.

**R4-11-305. Application Processing Procedures: Issuance, Denial, and Renewal of General Anesthesia and Semi-conscious Deep Sedation Permits, Conscious Parenteral Sedation Permits, and Oral Conscious Sedation Permits, and Permit to Employ a Physician Anesthesiologist or CRNA**

- A.** The Board office shall complete an administrative completeness review within 24 days from the date of the receipt of an application for a permit.
  1. Within 14 calendar days of receiving an initial or renewal application for a general anesthesia and ~~semi-conscious deep sedation permit, conscious parenteral sedation permit, or oral conscious sedation permit~~ permit to employ a physician anesthesiologist or CRNA the Board office shall notify the applicant, in writing, whether the application package is complete or incomplete.
  2. If the application package is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 24-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.



- 3. If the Board office does not provide the applicant with notice regarding administrative completeness, the application package shall be deemed complete 24 days after receipt by the Board office.
- B. An applicant with an incomplete application package shall submit all missing information within 60 calendar days of service of the notice of incompleteness.
- C. Upon receipt of all missing information, the Board office shall notify the applicant, in writing, within 10 calendar days, that the application package is complete. If an applicant fails to submit a complete application package within the time allowed in subsection (B), the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a permit shall apply again as required in A.A.C. Title 4, Chapter 11, Article 13.
- D. The Board shall not approve or deny an application until the applicant has fully complied with the requirements of this Section and A.A.C. Title 4, Chapter 11, Article 13.
- E. The Board shall complete a substantive review of the applicant's qualifications in no more than 120 calendar days from the date on which the administrative completeness review of an application package is complete.
  - 1. If the Board finds an applicant to be eligible for a permit and grants the permit, the Board office shall notify the applicant in writing.
  - 2. If the Board finds an applicant to be ineligible for a permit, the Board office shall issue a written notice of denial to the applicant that includes:
    - a. Each reason for the denial, with citations to the statutes or rules on which the denial is based;
    - b. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
    - c. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
    - d. The name and telephone number of an agency contact person who can answer questions regarding the application process.
  - 3. If the Board finds deficiencies during the substantive review of an application package, the Board office shall issue a comprehensive written request to the applicant for additional documentation.
  - 4. The 120-day time-frame for a substantive review of an applicant's qualifications is suspended from the date of a written request for additional documentation until the date that all documentation is received.
  - 5. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time-frame may be extended once for no more than ~~60~~<sup>36</sup> days. ~~The applicant shall submit the additional documentation before the next regularly scheduled Board meeting.~~
- F. The following time-frames apply for an initial or renewal application governed by this Section:
  - 1. Administrative completeness review time-frame: 24 calendar days.
  - 2. Substantive review time-frame: 120 calendar days.
  - 3. Overall time-frame: 144 calendar days.

**NOTICE OF FINAL RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

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

[R16-28]

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable)**

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. The effective date of the rule:**
  - April 2, 2016



**4. 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

Notice of Proposed Rulemaking: 21 A.A.R. 2286, October 9, 2015

**5. The agency's contact person who can answer question about the rulemaking:**

Name: Wendy LeStarge

Address: Arizona Department of Environmental Quality  
Water Quality Division  
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: [lestarge.wendy@azdeq.gov](mailto:lestarge.wendy@azdeq.gov)

**6. 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. The original federal rule language requires that the wholesale ground water system sample all of its groundwater sources within 24 hours of receiving notice of a total coliform-positive result from a consecutive ground water system. The original federal rule language could unduly burden some PWSs in Arizona. ADEQ is aware of one PWS which has approximately 200



active wells and provides the sole source of water to about 42 consecutive systems. ADEQ’s modified language requires that the consecutive ground water system first collect its repeat sample at the connection where it receives its ground water. If the interconnect sample is fecal indicator positive, then ADEQ would determine which wells, if any, the wholesale system must sample to determine the microbial quality of the source.

- 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. ADEQ will implement any changes in monitoring frequency allowed under R18-4-103(B) after conducting a sanitary survey of a PWS.

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.

**7. 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>

**8. 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

**9. A summary of the economic, small business, and consumer impact:****Background on Safe Drinking Water Act Regulation**

The Safe Drinking Water Act (SDWA) regulates public water systems. A Public Water System (PWS) provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year. Under the rules, PWSs are categorized as follows:

- Community water systems (CWSs) – serves 15 or more service connections used by year-round residents or that serves 25 or more year-round residents. This PWS supplies water to the same population year-round, such as for a residential community.
- Nontransient, Noncommunity water systems (NTNCWSs) – serves 15 or more service connections that are used by the same persons for at least six months per year, or serves the same 25 or more persons for at least six months per year. This PWS could be a school, factory, or office building that has its own water system.
- Transient Noncommunity water systems (TNCWSs) – serves 15 or more service connections, but does not serve 15 or more service connections that are used by the same persons for more than six months per year; or serves an average of at least 25 persons per day for at least 60 days per year, but does not serve the same 25 persons for more than six months per year. A TNCWS could be a business that must operate a water system ancillary to its business, such as a restaurant in a rural area that uses and serves water from a well, or a government- owned water system for a state campground.

Under the SDWA regulations, EPA sets maximum contaminant levels (“MCL”) on contaminants. PWSs are required to monitor (sample and test) their water for the listed contaminants, and to submit regular reports to the state agency. If an MCL is exceeded, usually the PWS must retest. A PWS also may need to take corrective action. Another element of the regulatory format is CWSs must compile and publish regular reports (Consumer Confidence Reports) for its customers/users regarding the safety of the drinking water. EPA also sets regulatory criteria based on:

- The population served by the PWS;
- The category of the PWS;
- The PWS’s source water type of drinking water (ground water, surface water, or ground water under the direct influence of surface water);
- Type of treatment a PWS uses on its source water; and
- Whether the PWS uses disinfection.

The two major changes in this rulemaking are the updates to the federal rules of the Revised Total Coliform Rule and the Lead and Copper Rule. EPA compiled an economic analysis for each rulemaking. EPA based much of its analysis from its national database, Safe Drinking Water Information System Federal Version (SDWIS/FED), which examined data for 155,000 active PWSs nationwide. ADEQ relied on its state version of SDWIS/State for any Arizona numbers reported. In Arizona, there are 1,531 PWSs, serving a total population of about 6,552,434.

**A. Brief summary of the information included in the economic, small business and consumer impact statement:**

The Revised Total Coliform Rule (RTCR) should benefit all of Arizona’s reported 1,531 PWSs as it reduces or eliminates costs associated with eliminating the non-acute MCL violation for total coliforms, reduces the required repeat sampling, and eliminates the subsequent public notification requirements. PWSs could face some costs for taking corrective action if required. Some PWSs will be affected by the clarifications to the Lead and Copper Rule, mainly for actually notifying customers of sample results from the customers’ taps.

**B. Name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement:**

Name: Wendy LeStarge  
Address: Arizona Department of Environmental Quality  
Water Quality Division  
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: [lestarge.wendy@azdeq.gov](mailto:lestarge.wendy@azdeq.gov)

**C. Identification of persons who will be directly affected by, bear the costs of or directly benefit from the**



**rulemaking:**

RTCR will affect all PWSs. Lead and Copper rule changes affect only CWSs and NTNCWSs. Arizona PWSs categories are broken down as follows:

- CWSs = 752,
- NTNCWSs = 574, and
- TNCWSs = 205.

Operators of PWS also can be affected by the proposed rules. Operators of drinking water treatment plants and distribution systems are responsible for all decisions about process control or system integrity that affects public health and the environment. Many operators conduct sampling for the PWS. Every PWS is required to ensure that it has a certified operator in direct responsible charge. A.A.C. R18-5-104(A)(1). There are 5,441 certified operators for drinking water treatment or distribution systems. Some operators work as employees of the PWS; others may work as their own business, usually on a contract basis for smaller PWSs. It is possible that some certified operators who work on a contract basis could be impacted by RTCR as described in Section G.

**D. Cost-benefit analysis of probable costs and benefits to ADEQ and other agencies:**

ADEQ is the main agency impacted by the proposed changes. ADEQ will not add any new FTEs, but will reallocate existing staff in order to:

- Develop and adopt state regulations, procedures, and forms;
- Modify SDWIS to track new required PWS reports;
- Review completed RTCR Level 1 and Level 2 assessment forms required to be filed by PWSs;
- Review lead and copper data, prepare conclusions and letters to systems, and coordinate with PWSs.

The Arizona Department of Health Services (ADHS) has statutory responsibility for licensing the environmental laboratories that public water systems must use to conduct analysis of their drinking water monitoring samples. Although ADEQ is the agency with primary responsibility for Arizona’s safe drinking water primacy, ADEQ and ADHS work together to maintain Arizona’s primacy, since both agencies must adopt regulations that are as stringent as EPA’s drinking water regulations. ADHS will likely incur administrative costs associated with promulgating rulemaking necessary to update its rules.

**E. Cost-benefit analysis of probable costs and benefits to political subdivisions:**

Political subdivisions and government entities that own PWSs will be impacted by this rulemaking as with any other PWS. Out of 1,531 PWSs in Arizona, 446 are publicly-owned. PWSs can be publicly owned by federal, state, or local entities. Another type of public entity is a Domestic Water Improvement District (DWID), which is a special type of County Improvement District. A.R.S. Title 48, Chapter 6. Maricopa and Pima Counties are co-regulators with ADEQ; also Maricopa County owns and operates six PWSs; Pima County has eleven PWSs.

DWIDs and many cities and towns own and operate CWSs to provide drinking water to their residents. The federal government owns and operates CWSs for military bases and some federal parks. Federal, state, and local governments and school districts also own and operate NTNCWSs such as for an office building or a school. Federal, state, and local governments also own and operate TNCWSs such as for a campground or park.

Maricopa and Pima Counties could also incur some costs because of their role as regulators. ADEQ has delegated authority to enforce the SDWA to Maricopa and Pima counties, within their jurisdictions. ADEQ has been working with both counties to develop procedures and forms for RTCR. Both counties will likely incur some costs similar to ADEQ, such as for reviewing completed Level 1 and Level 2 assessment forms required to be filed by PWSs under the RTCR. Neither county is delegated responsibility for data management and neither county will need to adopt regulations. Both counties assess fees for activities such as inspections. They could face costs related to inspections located within their respective jurisdictions, but should be able to recover their costs through fees. Because the Lead and Copper rule is mainly a review of sampling data and follow-up, neither county should incur costs related to the Lead and Copper Rule.

**F. Cost-benefit analysis of probable costs and benefits to businesses:**

This section discusses the costs and benefits of this rulemaking to all 1,531 Arizona PWSs, although 1,085 are privately-owned PWS. Privately-owned CWSs include utility companies, RV parks, and sometimes homeowners associations. Privately-owned NTNCWSs could be a business or non-profit organization providing drinking water ancillary to its office or business building. Privately-owned TNCWSs could include a restaurant. Costs, and the ability to manage costs are affected by the category of PWS. As CWSs generally are funded through rates, the



owner of a CWS has the ability to increase rates. Water use for NTNCWSs and TNCWSs tends to be ancillary, such as for a school or a restaurant; the ability to cover any increased costs is more limited.

Under the current rules, all PWSs already collect water samples for total coliform and *E. coli* on a monthly basis and have them tested for the presence of total coliforms by a state certified laboratory. The PWS must also report sample results to ADEQ and maintain records. The number of samples a PWS collects depends on the size of the population served, ranging from one per month for a PWS serving less than 1,000, to 480 samples per month for a PWS serving more than 3,960,001. For any sample that is total coliform positive (TC positive), a PWS must analyze the sample for *E. coli* and collect repeat samples for each TC positive sample. The number of required repeat sampling depends on the results of additional TC positive samples and on the size of the PWS. For a PWS serving less than 1,000, repeat sampling ranges from four to 20 extra samples. For a PWS serving over 1,000, repeat sampling ranges from three to 12 extra samples. Two TC positive samples result in a non-acute MCL violation, and requires the PWS to issue a Tier 2 public notification within 30 days.

RTCR eliminates the non-acute MCL violation for total coliforms, lowers the required number of repeat samples, and eliminates the subsequent public notification requirements. Under RTCR, in response to a TC positive, the PWS conducts three repeat samples, regardless of its size. If any repeat sample is positive, a PWS may be required to conduct additional repeat sampling or conduct a Level 1 Assessment. A PWS may need to conduct a more rigorous evaluation under a Level 2 Assessment. The PWS must also fix any sanitary defects within a required time-frame. Corrective actions resulting from a Level 1 Assessment focus more on transient solutions or training than on permanent fixes to the PWS. Corrective actions taken as a result of Level 2 assessments are expected to find a higher proportion of structural/technical issues resulting in material fixes to the PWSs and distribution system.

Under the RTCR, all PWSs will incur some initial one-time costs, including:

- Reading and understanding the rule, and training employees on rule requirements. EPA estimated that PWSs require a total of four hours to read and understand the rule, and a total of eight hours to plan and assign appropriate personnel and resources to carry out rule activities, resulting in national annualized cost estimates for rule implementation and annual administration of \$2.77 million to \$4.00 million for 155,000 active PWSs.
- Revising existing sample siting plans to identify sampling locations and collection schedules. EPA estimated that PWSs require two to eight hours to revise their sample siting plan, depending on PWS size, resulting in national annualized cost estimates for revising sample siting plans of \$0.59 million to \$0.84 million for 155,000 active PWSs.

Under the RTCR, a PWS still may be required to develop and distribute a public notice, but these costs should be minor. A PWS must issue some level of public notice if it incurs an *E. coli* MCL violation, a treatment technique violation for failure to conduct assessments or corrective action, or for a monitoring or reporting violation. PWSs will need to update the existing language used in the public notice based on language specified in the RTCR. ADEQ has template language on its website for PWSs to use. Also, if a CWS must conduct an assessment or incurs an *E. coli* MCL violation, the CWS will need to include that information in its Consumer Confidence Report, using language specified in the RTCR.

EPA estimated a net increase in national annualized cost estimates for conducting assessments of \$0.69 million to \$0.70 million. Corrective action costs are the most significant contributors to the net increase in costs for PWSs under the RTCR. EPA estimated a net increase in national annualized cost estimates for conducting corrective actions of \$10.63 million to \$12.44 million for 155,000 active PWSs.

PWSs should derive some benefits from RTCR as a result of reducing the number of repeat samples collected and eliminating the non-acute MCL public notification requirements. EPA estimated a net increase in national annualized cost estimates for monitoring of \$0.95 million to \$1.14 million due to stricter requirements to qualify for reduced monitoring. But this increase is mostly offset by reductions in additional routine and repeat monitoring. EPA estimated a net decrease in national annualized cost estimates incurred by PWSs for public notification of \$3.35 million to \$3.49 million.

ADEQ reviewed its records of 241 total coliform violations for 2009 through 2013. During this period under the RTCR, 225 out of 241 violations would not have been violations, and the public water systems would not have incurred costs of additional monitoring and issuing public notice. In Arizona, TC sampling costs are approximately \$45 per sample; under RTCR, a PWS will save \$45 for every repeat sample the PWS is no longer required to conduct. For PWSs serving less than 1,000, the difference in conducting repeat samples (ranging from four to 20 samples to just three repeat samples) results in cost savings of \$45 to \$765.



EPA predicted some indirect benefits resulting from RTCR, such as:

- Increases the likelihood that PWS operators, in particular those of systems required to conduct assessments and corrective action, will develop further understanding of system operations and improve and practice preventive maintenance.
- PWSs may choose corrective actions that also reduce other drinking water contaminants as a result of the fact that the corrective action eliminates a pathway of potential contamination into the distribution system.
- Implementing corrective actions should result in overall better water quality.

LEAD & COPPER RULE

Only CWSs and NTNCWSs must monitor drinking water for concentrations of lead and copper, usually at customer taps because lead and copper enters drinking water primarily through corrosion of plumbing materials. EPA does not regulate lead or copper through an MCL, but through an action level: 0.015 milligrams per liter (mg/L) for lead and 1.3 mg/L for copper. If lead or copper concentrations exceed an action level in more than 10% of customer taps sampled, the PWS must undertake a number of additional actions including:

- Control corrosion,
- Perform public education,
- Treat the source water, and
- Replace lead service lines if optimal corrosion control has been installed but lead levels continue to exceed action levels.

PWSs that can demonstrate low levels of lead or copper qualify for reduced monitoring of once every three years, and possibly once every nine years.

The LCR changes are not major; the action levels are not changed. Rather the LCR clarifies certain requirements related to lead:

Change	Impact and Costs
Clarifies that a minimum of five samples must be taken when conducting compliance monitoring	Impacts smaller systems (serving 101 to 500) that have less than five taps. These systems will have to collect multiple samples on different days from the same tap in order to achieve the total number of required samples. EPA did not have data on direct costs. In Arizona, lead and copper sampling costs about \$35 per sample. A small system on initial monitoring would be taking 10 samples a year, so approximately \$350 annually. But very small systems serving 100 or less will only need to take five initial samples, at a cost of \$175.
Requires the PWS to notify the State before adding a new source of water or making any long-term treatment change.	ADEQ does not anticipate any impact or costs associated with this change. ADEQ has required that a PWS adding a new source of water or making any long-term treatment change must submit to a design review and receive approval from ADEQ before any construction begins. ADEQ's rules, 18 A.A.C. 5, Article 5 have been in place since 1995.
Clarifies that non-compliance starts at the end of the monitoring period for a PWS exceeding the lead or copper action level during a monitoring period.	Under the previous language, it was not clear whether noncompliance began at the end of the calendar year or at the end of the monitoring period. As a result, activities triggered by an action level exceedance could begin three months earlier, but the duration of these activities would not likely be longer. This change does not alter the number of samples taken, but rather the time. Any direct cost should be minor.
If a PWS undertakes lead service line replacement, the PWS can allow an individual lead service line to remain if all samples from that line are less than the action level. The LCR requires that if the lead action level is exceeded, the PWS must reconsider any lines previously decided to not need replacement	EPA estimated the total direct costs for PWSs nationwide would be \$101,000 annually. The estimate is based on the number of PWSs previously involved in a lead service line replacement program, the number of PWSs likely to discontinue such a program because of low tested lead levels, and then the fraction of those PWSs likely to subsequently exceed the action level and restart their lead service line replacement program. ADEQ has never required line replacement or a treatment change and is not aware of a delegated county requiring it either.
When sampling at a customer's tap for lead and copper, a CWS must notify those customers of the results. Compliance for NTNCWSs will be determined by their circumstances and may consist of posting a notice on community bulletin boards or Web sites.	EPA estimated that PWSs nationwide subject to LCR would incur total annual costs of \$1,248,000 to notify customers.



<p>Broadens the public outreach responsibilities that the PWS has if action levels are exceeded, and includes notifying schools, day care centers and health care providers in the area of the health effects of lead and its impact on children.</p>	<p>EPA estimated that additional labor and material costs would result in total annual costs of \$859,200 for PWSs impacted nationwide.</p>
<p>A PWS on reduced monitoring that has an action level exceedance will be required to resume standard monitoring schedules for monitoring lead at taps.</p>	<p>A PWS would go from monitoring once every three years to twice a year, meaning an additional five monitoring events. The required number of samples depends on the PWS size; the smallest PWS serving 100 or less people must take five samples per monitoring event; PWSs serving more than 100,000 people must take 100 samples per monitoring event. EPA estimated that out of 72,589 PWSs nationwide, 994 would exceed the 90th percentile; approximately 925 of those would already have been on reduced monitoring. EPA further estimated total costs to PWSs nationwide would be \$2,636,000 annually.</p>

The LCR changes should be a lesser impact than changes under RTCR. Compared to PWSs nationwide, Arizona PWSs tend to be newer and the high mineral content in surface and groundwater helps to inhibit leaching from lead or copper lines. In Arizona, 1,326 CWSs and NTNCWSs must monitor for lead and copper; 857 of those systems are on the three year reduced monitoring schedule. No PWSs in Arizona have qualified or have sought to qualify for the nine year reduced monitoring. Since 2010, only 34 PWSs have triggered the 90<sup>th</sup> percentile level, and only one in 2015.

**G. Probable impact on public and private employment:**

ADEQ does not anticipate that private or public employment will be directly affected by these rules, though it is possible that some certified operators who work on a contract basis could be impacted by RTCR. The situation would be an operator that had to conduct monthly visits to a small PWS in order to conduct monthly TC sampling. If the PWS qualified for reduced monitoring, less required sampling could mean fewer visits for a certified operator. However, RTCR could result in the opportunity for other types of visits by a certified operator. A certified operator could conduct a more complex evaluation for a PWS in the form of Level 1 or 2 Assessment in response to a TC positive result. ADEQ is not able to quantify the level of impact.

**H. Probable impact on small businesses:**

In the RTCR rulemaking, EPA considered small entities to be PWSs serving 10,000 or fewer people based on a provision in the 1996 Amendments to the SDWA for small system flexibility. ADEQ prefers to define a small business as a small water system, which is defined as a water system that serves 3,300 persons or fewer. In Arizona about 1,391 PWS serve 3,300 or less.

The LCR provision of clarifying a minimum of five samples impacts smaller systems serving (101 to 500) that have less than five taps. These systems will have to collect multiple samples on different days from the same tap in order to achieve the total number of required samples, which could result in sampling costs of \$350 annually. But very small systems serving 100 or less will only need to take five initial samples, at a cost of \$175. Other than this provision, the LCR impacts small PWSs equally as larger PWSs, other than small PWSs tend to have difficulty raising capital for infrastructure projects because of a smaller customer base.

The RTCR has specific provisions that positively impact small PWSs. One change that ADEQ will institute is quarterly routine monitoring for total coliform for all non-CWS serving 1,000 or less and using only ground water. This would impact 723 Arizona PWSs and could result in an annual cost savings of \$360 for each PWS (four samples at \$45 versus 12 samples at \$45). Another change, as described in Section F, is the reduction in required repeat sampling in response to a TC positive. For PWSs serving less than 1,000, the difference in conducting repeat samples (ranging from four to 20 samples to just three repeat samples) results in cost savings of \$45 to \$765.

The RTCR also allows PWSs that qualify to go on reduced monitoring to either quarterly or annual routine sampling. The PWS must serve less than 1,000 and use ground water only. Based on the criteria to qualify for reduced monitoring, ADEQ estimated how many Arizona systems could qualify based on data in SDWIS. ADEQ eliminated any PWSs that did not currently have a certified operator, had a significant deficiency during the last sanitary survey, had a score under EPA's ETT scoring (Enforcement Targeting Tool), or had a fecal coliform or *E. Coli* positive within last five years.



<u>PWS Type</u>	<u>Number of PWSs</u>	<u>Reduced Monitoring schedule</u>	<u>Number of Potential PWS that Could Qualify</u>	<u>Anticipated Cost Savings if Reduced Monitoring</u>
CWSs	504	Quarterly	About 66 systems could qualify (13%)	Switching to quarterly monitoring saves a system approximately \$360 in sampling costs.
NTNCWS	179	Annually	About 64 systems could qualify (36%)	Switching to annual monitoring saves a system approximately \$135 per year in sampling costs.
TNCWS	537	Annually	About 372 systems could qualify (69%)	Switching to annual monitoring saves a system approximately \$135 per year in sampling costs.

Seasonal systems tend to be smaller PWSs, and normally sample monthly during operation. Seasonal systems potentially could qualify for quarterly or annual monitoring. Seasonal systems would have an additional requirement to certify completion of approved start-up procedures.

Reduced monitoring under RTCR is a choice, not a requirement. The PWS would need to weigh the cost/benefit of reduced monitoring for itself. ADEQ did not evaluate the costs of the requirement that the PWS be visited by a certified operator each month regardless of whether a TC sample is taken or not. Also, a small PWS facing corrective action requiring infrastructure improvements could have difficulty raising capital for infrastructure projects because of a smaller customer base. However EPA estimated that only 0.04% nationwide of small systems would experience an impact of more than 1% of revenues, and that none of the small systems would experience an impact of 3% or greater of revenue.

A small business can also be a certified operator providing services. Generally, a small PWS is less complex and easier to operate than a larger facility, and may not be required to have an operator onsite. Some small PWSs employ a remote operator whose frequency of site visits could be daily, weekly, or monthly, depending on the needs of the PWS. ADEQ is aware of some operators who are remote operators for 50 or more facilities. Generally, the certified operator conducts TC sampling. Less required sampling could mean fewer visits for a certified operator; however, a certified operator could have to conduct a more complex evaluation for a PWS in the form of Level 1 or 2 Assessment in response to a TC positive result.

**1) The administrative and other costs required for compliance with the proposed rule making.**

Under the RTCR, all PWSs will incur some initial one-time costs, including:

- Reading and understanding the rule, and training employees on rule requirements. EPA estimated that PWSs require a total of four hours to read and understand the rule, and a total of eight hours to plan and assign appropriate personnel and resources to carry out rule activities, resulting in national annualized cost estimates for rule implementation and annual administration of \$2.77 million to \$4.00 million for 155,000 active PWSs.
- Revising existing sample siting plans to identify sampling locations and collection schedules. EPA estimated that PWSs require two to eight hours to revise their sample siting plan, depending on PWS size, resulting in national annualized cost estimates for revising sample siting plans of \$0.59 million to \$0.84 million for 155,000 active PWSs.

**2) A description of the methods prescribed in section 41-1035 that the agency may use to reduce the impact on small businesses, with reasons for the agency's decision to use or not to use each method.**

*(i) Establish less costly schedules or less stringent deadlines for compliance, or consolidate or simplify the rule's compliance or reporting requirements in the proposed rule making.*

The RTCR reduces some existing sampling requirements for smaller PWSs, and allows monitoring to be reduced to annually for qualifying small PWS that use groundwater only.

*(ii) Establish less costly compliance requirements, including establishing performance standards to replace design or operational standards in the proposed rule making.*

As a federally-delegated program, ADEQ's laws, rules, and program must comply with EPA requirements.

*(iii) Exempt small businesses from any or all requirements of the proposed rule making.*

As a federally-delegated program, ADEQ's laws, rules, and program must comply with EPA requirements.

**3) The probable cost and benefit to private persons and consumers who are directly affected by the proposed rule making.**

Benefits from the RTCR may include avoidance of a full range of health effects from the consumption of fecal contaminated drinking water, including the following: acute and chronic illness, endemic and epidemic disease, waterborne disease outbreaks, and death. It is anticipated that the requirements of the RTCR will help reduce pathways of entry for fecal contamination and/or waterborne pathogens into the distribution system, thereby reducing risk to both the general population as well as to sensitive subpopulations.



The RTCR could indirectly impact customers of a CWS, if a CWS passed the entire cost increase resulting from the rule on to its customers. EPA estimated that the average annual water bill could increase by six cents or less on average per year. Household costs tend to decrease as system size increases, due mainly to the economies of scale for the corrective actions. Customers served by a small CWS that have to take corrective actions as a result of the rule would incur slightly larger increases in their water bills. EPA estimated that the nine percent of households belonging to CWSs nationwide that perform corrective actions over the 25-year period of analysis experience an increase in annual net household costs of less than \$0.70 on average for CWSs serving greater than 4,100 people to approximately \$4.50 on average for CWSs serving 4,100 or fewer people on an annual basis. Costs to TNCWSs and NTNCWSs were not calculated since their costs are not typically passed through directly to households.

Under the Lead and Copper Rule, the revisions do not affect the action levels, corrosion control requirements, lead service line replacement requirements, or other provisions that directly determine the degree to which the rule reduces risks from lead and copper. EPA did not quantify the changes in associated health benefits. ADEQ believes the Lead and Copper Rule has indirect benefits as to improving customer awareness, especially of directly notifying customers, which helps customers determine what actions to take to reduce their exposure to lead and copper in drinking water.

**I. Probable effect on state revenues:**

There are no fees associated with these rules. This rulemaking will have no impact on state revenues.

**J. Description of less intrusive or less costly alternative methods of achieving the proposed rulemaking:**

As a federally-delegated program, ADEQ's laws, rules, and program must comply with EPA requirements. Some parts of the proposed rules reduce existing sampling requirements for smaller PWSs, and allow for reduced monitoring.

**K. Explanation of the limitations of the data available for this economic small business and consumer impact statement.**

ADEQ relied on its SDWIS/State for any numbers reported. ADEQ generally does not track information related to a PWS's costs, such as the cost of public notice, internal training costs, water treatment costs, or infrastructure repairs or improvements. ADEQ relied on EPA's economic analysis for each rulemaking, which examined data for 155,000 active PWSs nationwide.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

In item #12 of the Notice of Proposed Rulemaking Preamble, ADEQ inadvertently omitted listing the incorporation by reference for R18-4-103(B). ADEQ described the incorporation by reference in the Preamble under item #5 "Additional Changes". ADEQ also made various grammatical and technical changes at the suggestion of the Governor's Regulatory Review Council staff.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

ADEQ received one comment, inquiring why the definition of "Protected water source" was being added.

ADEQ's response is that protected source is not defined at the federal level but ADEQ wants to provide clarity to the regulated community and not leave this up to interpretation after the rule is implemented. ADEQ directly provided this response to the commentor and did not receive any other comments.

**12. 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 of the competitiveness of business in this state to the impact on business in other states:**

No person has 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.



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

- R18-4-102(A) 40 CFR Parts 141 and 142, July 1, 2014 edition.
- R18-4-103(B) American National Standards Institute/NSF International Standard 60 - 2014a, Drinking Water Treatment Chemicals - Health Effects, November 17, 2014 edition.  
American National Standards Institute/NSF International Standard 61 - 2014a, Drinking Water System Components - Health Effects, October 19, 2014 edition.

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable

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

Section

- 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(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.”
  12. In 40 CFR 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. 40 CFR 142.44(d), 142.54(d). The third, fourth, and fifth sentences of these subsections are deleted.
  14. 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. 40 CFR 141.23(k) is not incorporated by reference.
- E. 40 CFR 141.24(f)(17), 141.24(f)(20), and 141.24(h)(19) are not incorporated by reference.
- F. 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. 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. 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.